Changes to Legislation: as of 17 September 2026, this Act is up to date with all changes known to be in force.

Number 14 *of* 2005

DISABILITY ACT 2005

REVISED

Updated to 2 April 2025

This Revised Act is an administrative consolidation of the *Disability Act 2005*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Merchant Shipping (Investigation of Marine Accidents) Act 2025* (2/2025), enacted 14 April 2025, and all statutory instruments up to and including the *Policing, Security and Community Safety Act 2024 (Commencement) Order 2025* (S.I. No. 107 of 2025), made 2 April 2025, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 14 *of* 2005

DISABILITY ACT 2005

REVISED

Updated to 2 April 2025

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Number 14 *of* 2005

DISABILITY ACT 2005

REVISED

Updated to 2 April 2025

AN ACT TO ENABLE PROVISION TO BE MADE FOR THE ASSESSMENT OF HEALTH AND EDUCATION NEEDS OCCASIONED TO PERSONS WITH DISABILITIES BY THEIR DISABILITIES, TO ENABLE MINISTERS OF THE GOVERNMENT TO MAKE PROVISION, CONSISTENT WITH THE RESOURCES AVAILABLE TO THEM AND THEIR OBLIGATIONS IN RELATION TO THEIR ALLOCATION, FOR SERVICES TO MEET THOSE NEEDS, TO PROVIDE FOR THE PREPARATION OF PLANS BY THE APPROPRIATE MINISTERS OF THE GOVERNMENT IN RELATION TO THE PROVISION OF CERTAIN OF THOSE, AND CERTAIN OTHER SERVICES, TO PROVIDE FOR APPEALS BY THOSE PERSONS IN RELATION TO THE NON-PROVISION OF THOSE SERVICES, TO MAKE FURTHER AND BETTER PROVISION IN RESPECT OF THE USE BY THOSE PERSONS OF PUBLIC BUILDINGS AND THEIR EMPLOYMENT IN THE PUBLIC SERVICE AND THEREBY TO FACILITATE GENERALLY ACCESS BY SUCH PERSONS TO CERTAIN SUCH SERVICES AND EMPLOYMENT AND TO PROMOTE EQUALITY AND SOCIAL INCLUSION AND TO PROVIDE FOR RELATED MATTERS.

[8*th July*, 2005]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Functions in Part 2 transferred and references construed (1.03.2023) by *Specialist Community-Based Disability Services (Transfer of Departmental Administration and Ministerial Functions) Order 2022* (S.I. No. 688 of 2022), arts. 2(a), (b)(ii), 4 and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 5-9.

2. In this Order, "relevant function" means –

(*a*) any function transferred by Article 4 of this Order, and

(*b*) any function transferred to the Minister for Children, Equality, Disability, Integration and Youth by – ...

(ii) the Disability Act 2005 (No. 14 of 2005),

...

in so far only as the function consists of, or is connected with, specialist community-based disability services, within the meaning of the Health Act 2004, or any such other function otherwise assigned to that Minister by any of those Acts.

3. (1) The administration and business in connection with the exercise, performance or execution of any relevant function are transferred to the Department of Children, Equality, Disability, Integration and Youth.

(2) References to the Department of Health contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Children, Equality, Disability, Integration and Youth.

4. (1) The functions vested in the Minister for Health – ...

(*b*) by or under the provisions of the enactments specified in Part 2 of the Schedule, and

...

are transferred to the Minister for Children, Equality, Disability, Integration and Youth.

(2) References to the Minister for Health contained in any Act or instrument made under such Act, and relating to any relevant function shall, on and after the commencement of this Order, be construed as references to the Minister for Children, Equality, Disability, Integration and Youth.

...

SCHEDULE

Article 4

...

Part 2

Part 2 of the Disability Act 2005

...

C2 Functions transferred and references construed (14.10.2020) by *Disability, Equality, Human Rights, Integration and Reception (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 436 of 2020), arts. 2, 3(1)(a), (3) and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

Note change of name of Department and title of Minister to Department of and Minister for Children, Equality, Disability, Integration and Youth made (15.10.2020) by *Children and Youth Affairs (Alteration of Name of Department and Title of Minister) Order 2020* (S.I. No. 437 of 2020), in effect as per art. 1(2).

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Children and Youth Affairs.

(2) References to the Department of Justice and Equality contained in any Act or instrument made under such Act and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Children and Youth Affairs.

3. (1) The functions vested in the Minister for Justice and Equality -

(*a*) by or under the enactments specified in Schedule 1, and

...

are transferred to the Minister for Children and Youth Affairs.

...

(3) References to the Minister for Justice and Equality contained in any Act or instrument made under such Act, and relating to any functions transferred by this Article shall, on and after the commencement of this Order, be construed as references to the Minister for Children and Youth Affairs.

SCHEDULE 1

Article 3(1)(a)

Enactments, functions by or under which are transferred from the Minister for Justice and Equality to the Minister for Children and Youth Affairs

...

Disability Act 2005 (No. 14 of 2005)

...

Editorial Notes:

E1 Previous affecting provision: functions in relation to Act transferred and Department of and Minister for Community, Equality and Gaeltacht Affairs construed (1.04.2011) by *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 139 of 2011), arts. 2, 3 and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-6; superseded as per C-note above.

E2 Previous affecting provision: functions in relation to Act transferred (1.06.2010) by *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2010* (S.I. No. 217 of 2010), arts. 2, 3 and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-6; superseded as per E-note above.

PART 1

Preliminary and General

Short title and commencement.

1.—(1) This Act may be cited as the Disability Act 2005.

(2) Subject to *subsection (3)*, this Act shall, except in relation to a provision whose commencement is otherwise provided for by this Act, come into operation on such day or days as, by order or orders made by the Minister, may be fixed therefor either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions.

(3) *Part 2* shall come into operation on such day or days as, by order or orders made by the Minister for Health and Children, where appropriate, after consultation with the Minister for Education and Science, may be fixed therefor either generally or with reference to persons of different ages or with reference to any other particular purpose or provision and different days may be so fixed for persons of different ages, for other different purposes or for different provisions.

Annotations

Editorial Notes:

E3 Power pursuant to section exercised (6.01.2022) by *Disability Act 2005 (Commencement) Order 2022* (S.I. No. 3 of 2022).

2. The 6th day of January 2022 is fixed as the date on which Part 2 of the Disability Act 2005 (No. 14 of 2005) shall, in so far as it is not already in operation, come into operation in relation to persons born on or after the 1st day of June 2002.

E4 Power pursuant to section exercised (1.06.2007) by *Disability Act 2005 (Commencement) Order 2007* (S.I. No. 234 of 2007).

2. The 1st June 2007 is hereby fixed as the day on which the provisions of Part 2 of the Disability Act 2005 comes into operation in relation to persons under 5 years of age.

E5 Power pursuant to subs. (2) exercised (29.07.2005, 31.12.2005 and 1.01.2007) by *Disability Act 2005 (Commencement) Order 2005* (S.I. No. 474 of 2005).

3. (1) The 29th day of July 2005 is fixed as the day on which the following provisions of the Act of 2005 come into operation:

(*a*) Part 1;

(*b*) sections 24, 30, 31, 32, 33, 34, 35, 36 and 37; and

(*c*) Part 7.

(2) The 31st day of December 2005 is fixed as the day on which the following provisions of the Act of 2005 come into operation:

(*a*) sections 38, 39 and 40; and

(*b*) Part 4; and

(*c*) Part 5.

(3) The 1st day of January 2007 is fixed as the day on which Part 6 of the Act of 2005 comes into operation.

Interpretation.

2.—(1) In this Act, except where the context otherwise requires—

"Act of 1999" means the National Disability Authority Act 1999;

"Defence Forces" has the meaning assigned to it by the Defence Act 1954;

"disability", in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment;

"Executive" means the Health Service Executive;

"functions" includes powers and duties and references to the performance of functions include, with respect to powers and duties, references to the exercise of the powers and the carrying out of the duties;

"head" in relation to a public body means, the person who holds, or performs the functions of the office of the chief executive officer (by whatever name called) of the body;

"local authority" has the meaning assigned to it by the Local Government Act 2001;

"Minister" means the Minister for Justice, Equality and Law Reform;

"passenger transport service" does not include an air service within the meaning of the Air Navigation and Transport Act 1965 or a service provided by a person who only operates a train service or railway infrastructure of historic or touristic interest;

"public body" means—

(*a*) a Department of State,

(*b*) the Office of the President,

(*c*) the Office of the Attorney General,

(*d*) the Office of the Comptroller and Auditor General,

(*e*) the F1**[**Houses of the Oireachtas Service**]**,

(*f*) a local authority,

(*g*) the Executive,

(*h*) a person, body or organisation (other than the Defence Forces) established—

(i) by or under any enactment (other than the Companies Acts 1963 to 2003), or

(ii) under the Companies Acts 1963 to 2003, in pursuance of powers conferred by or under another enactment, and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or shares held by or on behalf of a Minister of the Government;

"service" means a service or facility of any kind provided by a public body which is available to or accessible by the public generally or a section of the public and, without prejudice to the generality of the foregoing, includes—

(*a*) the use of any place or amenity owned, managed or controlled by a public body,

(*b*) the provision of information or an information resource or a scheme or an allowance or other benefit administered by a public body,

(*c*) any cultural or heritage services provided by such a body, and

(*d*) any service provided by a court or other tribunal.

(2) In this Act—

(*a*) a reference to a Part, section or Schedule is a reference to a Part or section of, or a Schedule to this Act, unless it is indicated that a reference to some other provision is intended,

(*b*) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended,

(*c*) a reference to any enactment or instrument made under statute is a reference to that enactment or instrument as amended, adapted or extended at any time by any enactment or instrument made under statute.

Annotations

Amendments:

F1 Substituted (1.01.2010) by *Houses of the Oireachtas Commission (Amendment) Act 2009* (44/2009), s. 14 and sch. part 1 item 8, commenced as per s. 15(3).

Modifications (not altering text):

C3 Functions transferred and references construed (14.10.2020) by *Disability, Equality, Human Rights, Integration and Reception (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 436 of 2020), arts. 2, 3(1)(a), (3) and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

Note change of name of Department and title of Minister to Department of and Minister for Children, Equality, Disability, Integration and Youth made (15.10.2020) by *Children and Youth Affairs (Alteration of Name of Department and Title of Minister) Order 2020* (S.I. No. 437 of 2020), in effect as per art. 1(2).

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Children and Youth Affairs.

(2) References to the Department of Justice and Equality contained in any Act or instrument made under such Act and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Children and Youth Affairs.

3. (1) The functions vested in the Minister for Justice and Equality -

(*a*) by or under the enactments specified in Schedule 1, and

...

are transferred to the Minister for Children and Youth Affairs.

...

(3) References to the Minister for Justice and Equality contained in any Act or instrument made under such Act, and relating to any functions transferred by this Article shall, on and after the commencement of this Order, be construed as references to the Minister for Children and Youth Affairs.

SCHEDULE 1

Article 3(1)(a)

Enactments, functions by or under which are transferred from the Minister for Justice and Equality to the Minister for Children and Youth Affairs

...

Disability Act 2005 (No. 14 of 2005)

...

Orders and regulations.

3.—(1) The Minister may, with the consent of the Minister for Finance—

(*a*) by regulations provide, subject to the provisions of this Act, for any matter referred to in *Part 2* as prescribed or to be prescribed, and

(*b*) in addition to any other power conferred on him or her to make regulations, make regulations generally for the purposes of, and for the purpose of giving full effect to, *Part 2*.

(2) Where the Minister proposes to make regulations under this section, he or she shall, before doing so, consult with such other (if any) Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister of the Government.

(3) An order or regulation under this Act (other than an order under *section 1*) may contain such incidental, supplementary and consequential provisions as appear to the Minister of the Government concerned to be necessary or expedient for the purposes of the order or regulation.

(4) Every order (other than an order under *section 1*) or regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(5) A Minister of the Government by whom an order under this Act is made may by order amend or revoke the order.

(6) In this section "Minister" means the Minister for Health and Children.

Annotations

Modifications (not altering text):

C4 Functions transferred and references to "Minister for Health" construed (29.11.2023) by *Specialist Community-Based Disability Services (Transfer of Departmental Administration and Ministerial Functions) Order 2023* (S.I. No. 595 of 2023), arts. 2, 3, in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Children, Equality, Disability, Integration and Youth.

(2) References to the Department of Health contained in any Act or any instrument made under an Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Children, Equality, Disability, Integration and Youth.

3. (1) The functions vested in the Minister for Health by or under *section 3* of the *Disability Act 2005* (No. 14 of 2005) are transferred to the Minister for Children, Equality, Disability, Integration and Youth.

(2) References to the Minister for Health contained in any Act or instrument made under an Act and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Children, Equality, Disability, Integration and Youth.

...

C5 Functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(*a*) the enactments specified in Schedule 1, and

(*b*) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 14 of 2005	Disability Act 2005	Sections 3 and 47
...	...	...

Editorial Notes:

E6 Power pursuant to section exercised (5.12.2023) by *Disability (Assessment of Needs, Service Statements and Redress) (Amendment) Regulations 2023* (S.I. No. 601 of 2023).

Expenses.

4.—(1) The expenses incurred by a Minister of the Government (other than the Minister for Finance) in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

(2) The expenses incurred by the Minister for Finance in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

Provision of resources and extent of provision.

5.—(1) In this section—

"Minister" means a Minister of the Government;

"relevant public body", in relation to a Minister, means a public body which provides services under this Act in relation to which that Minister allocates moneys;

"service plan", in relation to a specified body, means a service plan or other similar document approved by the Minister to whom that body is required by an enactment to submit such a plan or document;

"specified body" means the Executive or any other public body which is not the subject of an allocation by a Minister under *subsection (2)*.

(2) Where, in the financial year 2005 or any subsequent such year, a Minister or a relevant public body in relation to that Minister provides or arranges for the provision of services under this Act, that Minister shall, subject to *subsections (4)* and *(5)*, allocate out of the moneys available to him or her for that year such amount as he or she considers appropriate for the provision of those services.

(3) Where, in the financial year 2005 or any subsequent such year, a specified body provides or arranges for the provision of services under this Act, that body shall, subject to *subsections (4)* and *(5)*, allocate out of the moneys available to it for that year such amount as it considers appropriate for the provision of those services.

(4) In determining the appropriate allocation under *subsection (2)* or *(3)* in a financial year, the Minister or specified body concerned shall ensure that the amount remaining after the allocation is not less than the amount that is appropriate, having regard, *inter alia*, to—

(*a*) the extent of the Minister's or the specified body's other obligations in that year, and

(*b*) in the case of a specified body, its service plan for that year,

for the performance of the functions conferred on the Minister or the specified body other than by this Act.

(5) If satisfied that the amount of the moneys allocated under *subsection (2)* or *(3)* in a financial year is the maximum amount permitted by this section to be so allocated—

(*a*) the Minister or specified body concerned, as the case may be, shall not be required to allocate, and nothing in this Act shall be construed as requiring the allocation of, additional moneys under *subsection (2)* or *(3)* for that year, and

(*b*) the Minister or a relevant public body in relation to the Minister or a specified body, as the case may be, shall not be required to provide, and nothing in this Act shall be construed as requiring the provision by or on behalf of the Minister, the relevant public body or the specified body of, services under this Act in that year the cost of the provision of which could not be met out of the moneys allocated under *subsection (2)* or *(3)*.

Review of operation of Act.

6.—The Minister shall, not later than 5 years after the commencement of this Act, carry out a review of the operation of this Act.

PART 2

Assessment of Need, Service Statements and Redress

Annotations

Modifications (not altering text):

C6 Functions in Part 2 transferred and references construed (1.03.2023) by *Specialist Community-Based Disability Services (Transfer of Departmental Administration and Ministerial Functions) Order 2022* (S.I. No. 688 of 2022), arts. 2(a), (b)(ii), 4 and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 5-9.

2. In this Order, "relevant function" means –

(*a*) any function transferred by Article 4 of this Order, and

(*b*) any function transferred to the Minister for Children, Equality, Disability, Integration and Youth by – ...

(ii) the Disability Act 2005 (No. 14 of 2005),

...

in so far only as the function consists of, or is connected with, specialist community-based disability services, within the meaning of the Health Act 2004, or any such other function otherwise assigned to that Minister by any of those Acts.

3. (1) The administration and business in connection with the exercise, performance or execution of any relevant function are transferred to the Department of Children, Equality, Disability, Integration and Youth.

(2) References to the Department of Health contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Children, Equality, Disability, Integration and Youth.

4. (1) The functions vested in the Minister for Health – ...

(*b*) by or under the provisions of the enactments specified in Part 2 of the Schedule, and

...

are transferred to the Minister for Children, Equality, Disability, Integration and Youth.

(2) References to the Minister for Health contained in any Act or instrument made under such Act, and relating to any relevant function shall, on and after the commencement of this Order, be construed as references to the Minister for Children, Equality, Disability, Integration and Youth.

...

SCHEDULE

Article 4

...

Part 2

Part 2 of the Disability Act 2005

...

Interpretation (*Part 2*).

7.—(1) In this Part—

"Act of 2004" means the Education for Persons with Special Educational Needs Act 2004;

"appeals board" means the Special Education Appeals Board established under section 36 of the Act of 2004;

"appeals officer" shall be construed in accordance with *section 16*;

"applicant" means the person who is the subject of an application;

"application" means an application under *section 9* to the Executive for an assessment;

"assessment" means an assessment undertaken or arranged by the Executive to determine, in respect of a person with a disability, the health and education needs (if any) occasioned by the disability and the health services or education services (if any) required to meet those needs;

"assessment officers" shall be construed in accordance with *section 8*;

"assessment report" shall be construed in accordance with *section 8*;

"child" means a person under the age of 18 years;

"complaints officer" shall be construed in accordance with *section 15*;

"Council" means the National Council for Special Education;

"education service" means a service provided by a recognised school or centre for education (within the meaning in each case of the Education Act 1998) or by a person or body specified by the Minister for Education and Science who provides a programme of education, training or instruction and "education service provider" shall be construed accordingly;

"head", in relation to an education service provider, means the person who holds or performs the functions of the office of chief executive officer (by whatever name called) of the service provider;

"health service" means a service (including a personal social service) provided by or on behalf of the Executive;

"liaison officer" shall be construed in accordance with *section 11*;

"Minister" means the Minister for Health and Children;

"prescribed" means prescribed by regulations made by the Minister.

(2) In the definition of "disability" in *section 2*, "substantial restriction" shall be construed for the purposes of this Part as meaning a restriction which—

(*a*) is permanent or likely to be permanent, results in a significant difficulty in communication, learning or mobility or in significantly disordered cognitive processes, and

(*b*) gives rise to the need for services to be provided continually to the person whether or not a child or, if the person is a child, to the need for services to be provided early in life to ameliorate the disability.

(3) References in this Part to the Council shall be construed as references to the Council with, in addition to the functions conferred by the Act of 2004, the following functions:

(*a*) to assist the Executive in the assessment of adults with disabilities and the preparation of service statements;

(*b*) to consult with the Executive, education service providers and such other persons as the Council considers appropriate for the purposes of facilitating the provision of education services to persons with disabilities in accordance with this Part;

(*c*) in consultation with the Minister for Education and Science and the Executive, to plan and co-ordinate the provision of education services to adults with disabilities in accordance with this Part;

(*d*) to assess and review the resources required in relation to educational provision for adults with disabilities.

(4) References in this Part to the appeals board shall be construed as references to the appeals board with, in addition to the functions conferred by the Act of 2004, the function of hearing and determining an appeal under *section 11 (5)*.

Annotations

Modifications (not altering text):

C7 Functions in Part 2 transferred (1.03.2023) by *Specialist Community-Based Disability Services (Transfer of Departmental Administration and Ministerial Functions) Order 2022* (S.I. No. 688 of 2022), arts. 2(a), (b)(ii), 4 and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 5-9.

2. In this Order, "relevant function" means –

(*a*) any function transferred by Article 4 of this Order, and

(*b*) any function transferred to the Minister for Children, Equality, Disability, Integration and Youth by – ...

(ii) the Disability Act 2005 (No. 14 of 2005),

...

in so far only as the function consists of, or is connected with, specialist community-based disability services, within the meaning of the Health Act 2004, or any such other function otherwise assigned to that Minister by any of those Acts.

3. (1) The administration and business in connection with the exercise, performance or execution of any relevant function are transferred to the Department of Children, Equality, Disability, Integration and Youth.

(2) References to the Department of Health contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Children, Equality, Disability, Integration and Youth.

4. (1) The functions vested in the Minister for Health – ...

(*b*) by or under the provisions of the enactments specified in Part 2 of the Schedule, and

...

are transferred to the Minister for Children, Equality, Disability, Integration and Youth.

(2) References to the Minister for Health contained in any Act or instrument made under such Act, and relating to any relevant function shall, on and after the commencement of this Order, be construed as references to the Minister for Children, Equality, Disability, Integration and Youth.

...

SCHEDULE

Article 4

...

Part 2

Part 2 of the Disability Act 2005

...

Independent assessment of need.

8.—(1) The Executive shall authorise such and so many of its employees as it considers appropriate (referred to in this Act as "assessment officers") to perform the functions conferred on assessment officers by this Part and every person so appointed shall hold office as an assessment officer for such period as the Executive may determine.

(2) An assessment officer shall carry out assessments of applicants or arrange for their carrying out by other employees of the Executive or by other persons with appropriate experience.

(3) Where an assessment officer is of opinion that there may be a need for an education service to be provided to an applicant, he or she shall, as soon as may be, request the Council in writing to nominate a person with appropriate expertise to assist in the carrying out of the assessment under this section in relation to the applicant and the Council shall comply with the request.

(4) An assessment officer shall be independent in the performance of his or her functions.

(5) An assessment under this section shall be carried out without regard to the cost of, or the capacity to provide, any service identified in the assessment as being appropriate to meet the needs of the applicant concerned.

(6) Where an assessment officer carries out or arranges for the carrying out of an assessment under this Part, he or she shall prepare a report in writing of the results of the assessment and shall furnish a copy of the report to the applicant, the Executive, and, if appropriate, a person referred to in *section 9(2)* and the chief executive officer of the Council.

(7) A report under *subsection (6)* (referred to in this Act as "an assessment report") shall set out the findings of the assessment officer concerned together with determinations in relation to the following—

(*a*) whether the applicant has a disability,

(*b*) in case the determination is that the applicant has a disability—

(i) a statement of the nature and extent of the disability,

(ii) a statement of the health and education needs (if any) occasioned to the person by the disability,

(iii) a statement of the services considered appropriate by the person or persons referred to in *subsection (2)* to meet the needs of the applicant and the period of time ideally required by the person or persons for the provision of those services and the order of such provision,

(iv) a statement of the period within which a review of the assessment should be carried out.

(8) (*a*) An assessment officer may, for the purposes of carrying out an assessment of an applicant under this section, invite the applicant and, if appropriate, a person referred to in *section 9(2)* to meet with him or her for interview and furnish any documents or things relevant to the assessment in the possession of the applicant or person aforesaid that he or she may reasonably request and the applicant shall comply with the request.

(*b*) Where an applicant attends before an assessment officer pursuant to a request made to him or her under *paragraph (a)*, the officer shall inform him or her of the purpose of the interview unless in his or her opinion the provision of such information might be prejudicial to the applicant's mental health, well-being or emotional condition or inappropriate having regard to the age of the applicant or the nature of his or her disability.

(*c*) An assessment officer shall—

(i) endeavour to ensure that the person or persons carrying out an assessment communicate with the applicant in a manner which facilitates appropriate participation by him or her in the assessment and promotes dialogue about the nature of the assessment and that note is taken of the views (if any) of the applicant concerning his or her needs or preferences in relation to the provision of services to meet his or her needs, and

(ii) ensure that the applicant is given adequate information relating to the process of the assessment and the results of the assessment unless in his or her opinion the provision of such information might be prejudicial to the applicant's mental health, well-being or emotional condition or inappropriate having regard to the age of the applicant or the nature of his or her disability.

(9) Where an assessment officer carries out or arranges for the carrying out of an assessment on a child and the assessment identifies the need for the provision of an education service to the child, he or she shall, in case the child is enrolled in a school, refer the matter to the principal of that school for the purposes of an assessment under section 3 of the Act of 2004 and, in any other case, refer the matter to the Council for the purposes of an assessment under section 4 of the Act of 2004.

Application for an assessment.

9.—(1) Where—

(*a*) a person ("the person") is of opinion that he or she may have a disability, or

(*b*) a specified person ("the person") is of that opinion in relation to another person and the person considers that by reason of the nature of that other person's disability or age he or she is or is likely to be unable to form such an opinion,

the person may apply to the Executive for an assessment or for an assessment in relation to a specific need or particular service identified by him or her.

(2) In *subsection (1)(b)*, "the person" means—

(*a*) a spouse F2**[**, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]**, a parent or a relative of a person referred to in *subsection (1)(a)*,

(*b*) a guardian of that person or a person acting *in loco parentis* to that person,

(*c*) a legal representative of that person, or

(*d*) a personal advocate assigned by Comhairle to represent that person.

(3) An application under *subsection (1)* shall be in writing in the prescribed form or in a form to the like effect.

(4) Where it appears to an employee of the Executive that a person may have a disability or where a person is in receipt of a health service provided by the Executive or both, he or she may arrange for an application under *subsection (1)* to be made by or on behalf of the person or may request the Executive to carry out or cause to be carried out an assessment of the person.

(5) Where an application under *subsection (1)* or a request under *subsection (4)* is made, the Executive shall cause an assessment of the applicant to be commenced within 3 months of the date of the receipt of the application or request and to be completed without undue delay.

(6) (*a*) Where an assessment of a child has commenced under section 4 of the Act of 2004, an application shall not be made under *subsection (1)* in relation to the child.

(*b*) Where an assessment of a child under section 4 of that Act has been completed and the statement of findings in relation to the assessment identifies the need for the provision of a health service for the child, it shall be given to the appropriate liaison officer who shall have regard to the relevant contents of the statement and shall prepare a service statement under this Act.

(7) The Executive may refuse an application under *subsection (1)* if, subject to *subsection (8)*, an assessment has been carried out pursuant to an application under *subsection (1)* and the period specified in the assessment report in respect of the carrying out of a review of the assessment has not expired or, in the case of a child, the assessment has been carried out within the period of 12 months before the date of the application.

(8) A person who has previously made an application under *subsection (1)* may make a further application if he or she is of opinion that since the date of the assessment—

(*a*) there has been a material change of circumstances,

(*b*) further information has become available which either relates to the personal circumstances of the applicant or to the services available to meet the needs of the applicant, or

(*c*) a material mistake of fact is identified in the assessment report.

Annotations

Amendments:

F2 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 170 and sch. part 5 item 23, S.I. No. 648 of 2010.

Carrying out of assessments.

10.—Where an application is made under *section 9*, the Executive shall ensure that the assessment is carried out in a manner which conforms to such standards as may be determined from time to time by a body standing prescribed by regulations made by the Minister F3**[**...**]**.

Annotations

Amendments:

F3 Deleted (15.05.2007) by *Health Act 2007* (23/2007), s. 105 and sch. 2 part 6, S.I. No. 226 of 2007.

Service statement.

11.—(1) The Executive shall authorise such and so many employees of the Executive as it considers appropriate (referred to in this Act as "liaison officers") to perform the functions conferred on liaison officers by this Part.

(2) Where an assessment report is furnished to the Executive and the report includes a determination that the provision of health services or education services or both is or are appropriate for the applicant concerned, he or she shall arrange for the preparation by a liaison officer of a statement (in this Act referred to as "a service statement") specifying the health services or education services or both which will be provided to the applicant by or on behalf of the Executive or an education service provider, as appropriate, and the period of time within which such services will be provided.

(3) A liaison officer may request such persons as he or she considers appropriate (including the Council) to assist in the preparation of a service statement.

(4) (*a*) Where it appears to a liaison officer that the Council could by taking specified action assist in the preparation of a service statement, in the identification

of an appropriate education service provider or in the provision of an education service specified in a service statement, he or she shall, by notice in writing, request the Council to take that action in the manner specified in the notice.

(*b*) Before making a request under *paragraph (a)*, a liaison officer shall consult with the Council.

(*c*) The Council shall comply with a request under *paragraph (a)* unless it considers that—

(i) the assistance concerned is not required,

(ii) such compliance would not be consistent with its functions or would unduly prejudice the performance of any of its functions, or

(iii) having regard to the resources available to it, it is not reasonable for it to comply with the request.

(*d*) Where the Council decides not to comply with a request under *paragraph (a)*, it shall give notice in writing, without undue delay, to the liaison officer concerned of the decision and the reasons therefor.

(5) The liaison officer may appeal a decision of the Council under *subsection (4)* to the appeals board who may direct the Council to comply with the request or dismiss the appeal and the Council shall comply with a direction of the board.

(6) A service statement shall not contain any provisions relating to education services where the subject of the statement is a child.

(7) Without prejudice to the generality of *subsection (2)*, in preparing a service statement the liaison officer concerned shall have regard to the following—

(*a*) the assessment report concerned,

(*b*) the eligibility of the applicant for services under the Health Acts 1947 to 2004,

(*c*) approved standards and codes of practice (if any) in place in the State in relation to the services identified in the assessment report,

(*d*) the practicability of providing the services identified in the assessment report,

(*e*) in the case of a service to be provided by or on behalf of the Executive, the need to ensure that the provision of the service would not result in any expenditure in excess of the amount allocated to implement the approved service plan of the Executive for the relevant financial year,

(*f*) the advice of the Council, in the case of a service provided by an education service provider, in relation to the capacity of the provider to provide the service within the financial resources allocated to it for the relevant financial year.

(8) A service statement shall be prepared and a copy thereof shall be furnished to the applicant, the Executive, and, if appropriate, the chief executive officer of the Council and the head of the education service provider concerned without undue delay.

(9) A liaison officer may, if he or she considers it proper to do so having regard to any change in the circumstances of the applicant concerned or to any change in respect of the matters referred to in *subsection (7)*, amend a service statement and shall furnish a copy of the amended statement to the applicant, to the Executive, and, if appropriate, to the chief executive officer of the Council and the head of the education service provider concerned.

(10) A service statement amended under *subsection (9)* shall take effect on such date as may be specified in the statement by the liaison officer concerned.

(11) A liaison officer shall invite the applicant or a person referred to in *section 9(2)* to meet with him or her for the purpose of reviewing the provision of services specified in the applicant's service statement.

(12) A liaison officer shall arrange with the person or persons charged with delivering the services specified in the service statement for the delivery of the services at such times and in such manner as he or she may determine.

(13) In relation to an education service identified in the service statement, the Council shall assist a liaison officer in the performance of his or her functions under *subsection (12)* when requested to do so by the officer.

Exchange of information.

12.—(1) The liaison officer who prepared a service statement may, with the consent of the applicant concerned or, where appropriate, a person referred to in *section 9(2)*, furnish a copy of the assessment report concerned or any other information which the liaison officer considers appropriate to a public body for the purpose of assisting the person in applying for personal or individual services provided by the body relevant to his or her needs.

(2) Where a public body is furnished with a copy of an assessment report under *subsection (1)*, a member of staff of the body shall communicate with the applicant concerned, or where appropriate, a person referred to in *section 9(2)* or the liaison officer concerned for the purpose of facilitating or co-ordinating the provision of any service that may be provided to the applicant by the body that it considers that he or she is entitled to.

(3) F4**[**...**]**

Annotations

Amendments:

F4 Deleted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 202(a), S.I. No. 174 of 2018.

Maintenance of records by Executive, etc.

13.—(1) The Executive shall keep and maintain records for the purpose of—

(*a*) identifying persons to whom assessments or services are being provided pursuant to this Part or the Act of 2004,

(*b*) identifying those services and the persons providing the services pursuant to this Part,

(*c*) specifying the aggregate needs identified in assessment reports which have not been included in the service statements,

(*d*) specifying the number of applications for assessments made under *section 9* and the number of assessments completed under that section,

(*e*) specifying the number of persons to whom services identified in assessment reports have not been provided, including the ages and the categories of disabilities of such persons,

(*f*) planning the provision of those assessments and services to persons with disabilities.

(2) The Executive shall, within 6 months after the end of each year, submit a report in writing to the Minister in relation to the aggregate needs identified in assessment reports prepared including an indication of the periods of time ideally required for

the provision of the services, the sequence of such provision and an estimate of the cost of such provision.

(3) A report under this section shall include such other information in such form and regarding such matters as the Minister may direct and shall be published by the Executive within one month of the date of its submission to the Minister.

(4) F5**[**...**]**

Annotations

Amendments:

F5 Deleted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 202(b), S.I. No. 174 of 2018.

Complaints in relation to assessments or service statements.

14.—(1) An applicant may, either by himself or herself or through a person referred to in *section 9(2)*, make a complaint to the Executive in relation to one or more of the following:

(*a*) a determination by the assessment officer concerned that he or she does not have a disability;

(*b*) the fact, if it be the case, that the assessment under *section 9* was not commenced within the time specified in *section 9(5)* or was not completed without undue delay;

(*c*) the fact, if it be the case, that the assessment under *section 9* was not conducted in a manner that conforms to the standards determined by a body referred to in *section 10*;

(*d*) the contents of the service statement provided to the applicant;

(*e*) the fact, if it be the case, that the Executive or the education service provider, as the case may be, failed to provide or to fully provide a service specified in the service statement.

(2) A complaint under *subsection (1)* shall be made by the applicant concerned or a person referred to in *section 9(2)* as soon as reasonably may be after the cause of the complaint has arisen and in any case within such time (if any) as may be prescribed under *section 21*.

Complaints officers.

15.—(1) The Executive shall authorise such and so many employees of the Executive as it considers appropriate (referred to in this Part as "complaints officers") to perform the functions conferred on complaints officers by this Part.

(2) A complaints officer shall be independent in the performance of his or her functions.

(3) Following the receipt by the Executive of a complaint under *section 14*, he or she shall refer the matter to a complaints officer as soon as may be but not later than 10 working days after such receipt.

(4) Where a complaint has been referred to a complaints officer under *subsection (3)*, he or she shall consider the complaint and, if he or she is of opinion that it is frivolous or vexatious, he or she shall not entertain the complaint and he or she—

(*a*) shall prepare a report in writing of the reasons for his or her opinion and furnish a copy of it to—

(i) the applicant concerned,

(ii) if appropriate, the assessment officer concerned and the liaison officer concerned, and

(iii) the Executive.

(5) (*a*) Where a complaints officer is not of opinion that the complaint is frivolous or vexatious, he or she shall, having made such inquiries (if any) as appear to him or her to be necessary, consider whether the complaint is suitable for informal resolution and, if it is, he or she shall undertake the resolution of the complaint.

(*b*) Where a complaint is resolved under this subsection, a record shall be kept of the resolution arrived at and of the manner of such resolution and a copy thereof shall be sent to the applicant, the Executive and, if appropriate, the assessment officer concerned, the liaison officer concerned and the head of the education service provider concerned.

(*c*) Where a complaint is not resolved under this subsection, the complaints officer shall keep a record of the matter and send a copy thereof to the Executive who shall refer the matter to another complaints officer for investigation.

(6) Where a complaints officer is of opinion that a complaint is not suitable for such resolution as aforesaid, he or she shall investigate the complaint and shall give the applicant concerned and, if appropriate, the assessment officer concerned, the liaison officer concerned, the education service provider concerned and any other person having an interest in the matter, an opportunity to be heard by him or her and to present to him or her any evidence relating to the complaint and shall prepare a report in writing in relation to it setting out his or her findings and recommendations and shall furnish a copy of the report to the applicant, the Executive and, if appropriate, the assessment officer concerned, the liaison officer concerned and the head of the education service provider concerned.

(7) In addition to any other matter to which a complaints officer may, as he or she considers appropriate, have regard to in the performance of his or her functions, he or she shall have regard to the matters referred to in *section 11(7)*.

(8) A report of a complaints officer may contain one or more of the following:

(*a*) a finding that the complaint was or, as the case may be, was not well founded whether in part or in whole;

(*b*) if the report contains a finding that the Executive failed to commence an assessment within the period specified in *section 9(5)* or to complete an assessment without undue delay, a recommendation that the assessment be provided and completed within the period specified in the recommendation;

(*c*) if the report contains a finding that the person may have a disability, a recommendation that the person be the subject of a further assessment under *section 9* within the period specified in the recommendation;

(*d*) if the report contains a finding that the Executive failed to carry out an assessment under *section 9* in conformity with the standards referred to in *section 10*, a recommendation that the Executive cause the assessment or a specified part of it to be carried out in conformity with those standards within the period specified in the recommendation;

(*e*) if the report contains a finding that the contents of the service statement concerned are inaccurate or incorrect, a recommendation that the statement be amended, varied or added to by the liaison officer concerned within the period specified in the recommendation;

(*f*) if the report contains a finding that the Executive or an education service provider failed to provide or to fully provide a service specified in the service

statement, a recommendation that the service be provided in full by the Executive or the education service provider or both as may be appropriate within the period specified in the recommendation.

(9) Proceedings under this section before a complaints officer shall be conducted otherwise than in public.

(10) By notice in writing to the parties, a complaints officer may correct any mistake (including an omission) of a verbal or formal nature in a recommendation under this section.

Appeals officer.

16.—(1) (*a*) There shall be a person, who shall be appointed by the Minister, and who shall be known, and is referred to in this Act, as "the appeals officer", to consider and determine appeals under this Part.

(*b*) The appeals officer shall perform the functions conferred on him or her by this Act.

(2) The appeals officer shall be independent in the performance of his or her functions under this Act.

(3) The provisions of the Schedule shall have effect in relation to the appeals officer.

Annual report and information to Minister.

17.—The appeals officer shall not later than 6 months after the end of each year beginning with the year in which the first appeals officer is appointed, submit a report in writing to the Minister in relation to the performance of his or her functions under this Act during that year and the Minister shall cause a copy of the report to be laid before each House of the Oireachtas.

Appeals from and enforcement of recommendations of complaints officer.

18.—(1) An applicant or a person referred to in *section 9(2)* may appeal to the appeals officer in the prescribed manner against a finding or recommendation under *section 15(8)* or against the non-implementation by the Executive or a head of an education service provider of a recommendation of a complaints officer and, if he or she does appeal, the appeals officer shall give the parties an opportunity to be heard by him or her and to present to him or her any evidence relevant to the appeal.

(2) The Executive or the head of an education service provider may appeal to the appeals officer in the prescribed manner against a finding or recommendation specified in *paragraph (f)* of *section 15(8)* and, if such an appeal is brought, the appeals officer shall give the parties an opportunity to be heard by him or her and to present to him or her any evidence relevant to the appeal.

(3) Subject to *subsection (4)*, an appeal under this section shall be initiated by a person referred to in *subsection (1)* or *(2)* within 6 weeks of the date on which the finding or recommendation to which it relates was communicated to the person, by furnishing a notice in writing in the prescribed form or in a form to the like effect to the appeals officer specifying the grounds of appeal.

(4) The period referred to in *subsection (3)* may be extended by the appeals officer concerned (at the request in writing of a person referred to in *subsection (1)* or *(2)*) for a further period not exceeding 12 weeks if the appeals officer is satisfied that the person has given reasonable cause for the extension.

(5) The appeals officer shall make a determination in writing in relation to the appeal affirming, varying or setting aside the finding or recommendation concerned and shall communicate the determination (including the reasons therefor) to the applicant, the Executive and, if appropriate, the head of the education service provider concerned who shall comply with the determination.

(6) The appeals officer may, for the purpose of his or her functions under this Part require a complaints officer, an assessment officer or a liaison officer of the Executive

to make such further inquiries and to furnish him or her with the result of such inquiries or to furnish him or her with such further information as he or she considers necessary within such period as may be specified by him or her, and the officer shall comply with the requirement.

(7) The appeals officer may, for the purposes of an appeal under this section—

(*a*) require any person who, in the opinion of the appeals officer, is in possession of information, or has a record in his or her power or control, that, in the opinion of the appeals officer, is relevant to the purposes aforesaid to furnish to the appeals officer any such information or record that is in his or her possession or, as the case may be, power or control and, where appropriate, require the person to attend before him or her for that purpose, and

(*b*) examine and take copies in any form of, or of extracts from any record that, in the opinion of the appeals officer, is relevant to the appeal and for those purposes take possession of any such record and retain it in his or her possession for a reasonable period.

(8) The appeals officer may for the purposes of an appeal under this section enter any premises occupied by a public body or the provider of a health or education service and there—

(*a*) require any person found on the premises to furnish him or her with such information in the possession of the person as he or she may reasonably require for the purposes aforesaid and to make available to him or her any record in his or her power or control that, in the opinion of the appeals officer, is relevant to those purposes, and

(*b*) examine and take copies of, or of extracts from, any record made available to him or her as aforesaid or found on the premises and remove it from the premises and retain it in his or her possession for a reasonable period.

(9) Subject to *subsection (10)*, no enactment or rule of law prohibiting or restricting the disclosure or communication of information shall preclude a person from furnishing to the appeals officer any such information or record, as aforesaid.

(10) A person to whom a requirement is addressed under this section shall be entitled to the same immunities and privileges as a witness in a court.

(11) Subject to the provisions of this Act, the procedure for conducting an appeal under this section shall be such as the appeals officer considers appropriate in all the circumstances of the case and, without prejudice to the foregoing, shall be as informal as is consistent with the due performance of the functions of the appeals officer.

(12) The appeals officer may, where appropriate, hold an oral hearing for the purpose of an appeal under this section.

(13) (*a*) For the purposes of an oral hearing (if any) under this section, the appeals officer may—

(i) direct in writing any person whose evidence is required by him or her to attend before him or her on a date and at a time and place specified in the direction and there to give evidence and to produce any document or thing in his or her possession or control specified in the direction,

(ii) direct any such person to produce any specified document or thing in his or her possession or control,

(iii) direct in writing any person to send to the appeals officer any document or thing in his or her possession or power specified in the direction, and

(iv) give any other directions for the purpose of an appeal that appear to him or her reasonable and just.

(*b*) The appeals officer shall enable the applicant concerned or, where appropriate, a person referred to in *section 9(2)* and the Executive and, if appropriate, the head of the education service provider concerned or a person nominated by him or her and the assessment officer, liaison officer and complaints officer concerned to attend the hearing and present their case to him or her in person or through a representative.

(14) If a person gives false evidence before the appeals officer he or she shall be guilty of an offence.

(15) A witness whose evidence has been or is to be given before the appeals officer shall be entitled to the same privileges and immunities as a witness in a court.

(16) An oral hearing under this section shall be held in private.

(17) The following shall be absolutely privileged:

(*a*) documents of the appeals officer and documents connected with the appeals officer or his or her functions, wherever published;

(*b*) reports or determinations of the appeals officer, wherever published;

(*c*) statements made in any form at meetings or oral hearings of the appeals officer or by his or her officials and such statements wherever published subsequently.

(18) An applicant shall not be required to attend before the appeals officer under this section if, in the opinion of the appeals officer, such attendance might be prejudicial to his or her mental health, well-being or emotional condition.

(19) A person who—

(*a*) fails or refuses to comply with a requirement under this section or who hinders or obstructs the appeals officer in the performance of his or her functions,

(*b*) having been directed under *subsection (13)* to attend before the appeals officer, without just cause or excuse disobeys the direction,

(*c*) being in attendance before the appeals officer pursuant to a direction under *subsection (13)*, refuses to take the oath on being required by the appeals officer to do so or refuses to answer any question to which the appeals officer may legally require an answer or to produce any document or thing in his or her possession or power legally required by the appeals officer to be produced by the person,

(*d*) without just cause or excuse disobeys a direction under *subsection (13)(a)*, or

(*e*) does any other thing in relation to the proceedings before the appeals officer which, if done in relation to proceedings before a court by a witness in the court, would be contempt of that court,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months or to both.

(20) Before deciding an appeal under this section the appeals officer shall consider the following:

(*a*) the relevant notice under *subsection (3)*;

(*b*) any relevant information obtained pursuant to *subsection (6), (7)* or *(8)*;

(*c*) the evidence presented and any representations made at an oral hearing (if any); and

(*d*) the matters referred to in *section 11(7)*.

(21) By notice in writing to the parties, the appeals officer may correct any mistake (including an omission) of a verbal or formal nature in a determination under this section.

(22) A copy of every determination of the appeals officer under this Part shall be printed and made available by the appeals officer for inspection by the public at such times and places as he or she may determine.

(23) The contents of any document which is published or made available by virtue of this section shall be protected by absolute privilege.

Annotations

Editorial Notes:

E7 A fine of €3,000 translates into a class B fine, not greater than €4,000, as provided (4.01.2011) by *FInes Act 2010* (8/2010), ss. 3, 5(2) and table ref. no. 1, S.I. No. 662 of 2010.

Mediation.

19.—(1) The appeals officer may authorise such and so many members of his or her staff as he or she may determine (referred to in this Act as "mediation officers") to perform the functions conferred on mediation officers by this section.

(2) If at any time after an appeal has been initiated under *section 18*, the appeals officer is of opinion that the appeal could be resolved by mediation, he or she shall inform the person who initiates the appeal concerned of that opinion and, subject to *subsection (3)*, refer the matter for mediation to a mediation officer.

(3) If an applicant objects to his or her appeal being dealt with by mediation, the appeals officer shall deal with the matter under *section 18*.

(4) Mediation shall be conducted otherwise than in public.

(5) Where an appeal is resolved by mediation—

(*a*) the mediation officer concerned shall prepare a written record of the resolution arrived at, and

(*b*) the record aforesaid shall be signed by the applicant and the Executive and, if appropriate, the head of the education service provider concerned, or both of them, and a copy thereof shall be retained by the appeals officer and shall be sent to the applicant concerned and the Executive and, if appropriate, the assessment officer concerned, the liaison officer concerned and the head of the education service provider concerned.

Appeal to High Court.

20.—An appeal to a court shall not lie against a determination of the appeals officer other than an appeal on a point of law to the High Court.

Regulations.

21.—The Minister may make regulations for the purpose of enabling this Part to have full effect and, in particular, but without prejudice to the generality of the foregoing, regulations under this section may make provision in relation to any or all of the following:

(*a*) applications for assessments and the procedure for and in relation to such assessments including—

(i) different periods within which an assessment is to be carried out or subsequently reviewed,

(ii) different such periods in respect of—

(I) different categories of disability, or

(II) persons of different ages,

(iii) the categories of skills and expertise required to carry out an assessment,

(iv) matters relating to the determination and approval of standards to be applied in relation to the carrying out of an assessment,

(v) matters relating to the nomination by the Council of a person or persons with appropriate expertise to assist in carrying out an assessment in relation to educational services,

(*b*) in relation to a service statement—

(i) the form of the statement and any matter to be contained in it,

(ii) matters relating to the determination of eligibility under the Health Acts 1947 to 2004,

(iii) any other matters referred to in *section 11(7)*,

(iv) matters relating to the amendment of a service statement,

(v) the procedures for and in relation to the review with the applicant or a person referred to in *section 9(2)* by liaison officers of the provision of services specified in service statements, including the intervals at which such reviews shall be undertaken either generally or with reference to—

(I) a particular category or categories of disability, or

(II) categories of persons of a particular age,

(*c*) the procedures for and in relation to the making of complaints including the time within which a complaint must be made, the procedures for the granting of an extension of time where reasonable cause is shown for such an extension, and the form in which the complaint must be made, including procedures to be observed in the informal resolution of complaints,

(*d*) appeals under this Part and the procedures for and in relation to such appeals (including procedures for mediation), and

(*e*) the manner of determining the person (other than a personal advocate assigned by Comhairle) to represent an applicant who by reason of his or her disability or age is unlikely to be able to represent himself or herself in relation to specified matters arising under this Part.

Annotations

Editorial Notes:

E8 Power pursuant to section exercised (5.12.2023) by *Disability (Assessment of Needs, Service Statements and Redress) (Amendment) Regulations 2023* (S.I. No. 601 of 2023).

E9 Power pursuant to section exercised (13.12.2021) by *Disability (Assessment of Needs, Service Statements and Redress) (Amendment) Regulations 2021* (S.I. No. 704 of 2021).

E10 Power pursuant to section exercised (1.06.2007) by *Disability (Assessment of Needs, Service Statements and Redress) Regulations 2007* (S.I. No. 263 of 2007), in effect as per reg. 2.

Enforcement of determinations, etc.

22.—(1) (*a*) If the Executive or the head of the education service provider concerned fails—

(i) to implement in accordance with its terms a determination of the appeals officer in relation to an appeal under *section 18*, or

(ii) to give effect to a resolution arrived at under *section 19*, or

(iii) to implement in full a recommendation of a complaints officer,

within 3 months from the date on which the determination, resolution or recommendation is communicated to him or her or, where the determination, resolution or recommendation specifies a date for the provision of a service, within 3 months from the date specified in the determination, resolution or recommendation for such provision, then, the applicant concerned, a person referred to in *section 9(2)* or the appeals officer may apply to the Circuit Court on notice to the Executive or the head of the education service provider concerned for an order directing him or her to implement the determination or recommendation in accordance with its terms or to give effect to the resolution, as the case may be.

(*b*) The reference in *paragraph (a)* to a determination of the appeals officer or a recommendation of a complaints officer is a reference to a determination or recommendation in relation to which, at the expiration of the time for bringing an appeal under *section 18* or *section 20*, as the case may be, no such appeal has been brought or if such an appeal has been brought it has been abandoned and the reference to the date on which the determination or recommendation, as the case may be, is communicated to the parties shall, in a case where such an appeal is abandoned, be construed as a reference to the date of such abandonment.

(2) The jurisdiction conferred on the Circuit Court by this section may be exercised by the judge of the court for the time being assigned to the Dublin circuit or, at the option of the applicant, or a person referred to in *section 9(2)*, by the judge of the circuit in which the applicant ordinarily resides or carries on any profession, business or occupation.

Search warrants.

23.—(1) If a judge of the District Court is satisfied, by information on oath of the appeals officer or one of his or her officers, that there is reasonable cause for suspecting that any records, books, documents or other things containing material information are to be found at any premises and that such information is required for the performance by the appeals officer of his or her functions under this Part, the judge may issue a search warrant under this section.

(2) A search warrant under this section shall operate to authorise the person named in the warrant, accompanied by such other persons as the named person thinks necessary, to enter (if need be by force), at any time or times within one month from the date of the issue of the warrant, on production if so required of the warrant, the premises named in the warrant, and seize anything or to inspect and copy or take copies of extracts from any records, books, documents or other things found at the premises that he or she believes on reasonable grounds may be required by him or her for the performance of his or her functions under this Part.

(3) A person who obstructs or attempts to obstruct a person acting under the authority of a warrant under this section, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a period not exceeding 6 months or to both.

Annotations

Editorial Notes:

E11 A fine of €3,000 translates into a class B fine, not greater than €4,000, as provided (4.01.2011) by *FInes Act 2010* (8/2010), ss. 3, 5(2) and table ref. no. 1, S.I. No. 662 of 2010.

PART 3

Access to Buildings and Services and Sectoral Plans

F6[Definition. 24. In this Part "housing authority" means a local authority.]

Annotations

Amendments:

F6 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(8) and sch. 2 part 6, S.I. No. 214 of 2014.

Access to public buildings.

25.—(1) Subject to *subsection (4)* and *section 29*, a public body shall ensure that its public buildings are, as far as practicable, accessible to persons with disabilities.

(2) (*a*) The Minister may request the National Disability Authority ("the Authority") to prepare and submit to him or her a draft code of practice ("a draft code of practice") relating to the accessibility of public buildings to persons with disabilities for the purpose of giving guidance to public bodies.

(*b*) In preparing a draft code of practice under *paragraph (a)*, the Authority shall consult such other Ministers of the Government or other persons or bodies as the Authority considers appropriate or as the Minister may direct.

(*c*) The Minister may approve, refuse to approve or, after consultation with the Authority, amend a draft code of practice.

(*d*) If the Minister approves or, after the consultation aforesaid, amends a draft code of practice, he or she may by order declare that the draft or, as the case may be, the draft code of practice as amended as aforesaid is an approved code of practice for the purposes of this section ("an approved code of practice").

(*e*) The Minister may, after consultation with the Authority, by order revoke or amend an approved code of practice.

(*f*) A public body shall comply with an approved code of practice to such extent as is practical having regard to its resources and obligations and, in particular, shall do so—

(i) at the time of the construction, material alteration or extension of a public building, or

(ii) if by doing so, access to public buildings would be provided to a greater number of persons with disabilities in a more cost effective manner than would otherwise be the case.

(3) (*a*) Buildings, which are public buildings on the commencement of this section or which become public buildings after such commencement, shall be brought into compliance with Part M (unless the building is already required to be so compliant) not later than 31 December 2015.

(*b*) Public buildings shall be brought into compliance with any amendment of Part M made after such commencement not later than 10 years after the commencement of the amendment.

(4) A Minister of the Government may, by order declare that *subsection (3)* shall not apply to a public building specified in the order and in relation to which functions stand conferred on him or her if he or she is satisfied that—

(*a*) the building is being used temporarily as a public building and will cease to be used as such after 3 years from the date of the making of the order,

(*b*) the building will not be used as a public building after 3 years from the date of the making of the order, or

(*c*) making the building accessible to persons with disabilities would not be justified, on the grounds of cost, having regard to the use to which the building is put.

(5) Before making an order under *subsection (4)*, the Minister of the Government concerned shall consult with such other Ministers of the Government or such other persons as he or she considers appropriate.

(6) In this section—

"Part M" means Part M of the Building Regulations 1997 (S.I. No. 497 of 1997) as amended;

"public building" means a building, or that part of a building, to which members of the public generally have access and which is occupied, managed or controlled by a public body.

(7) This section shall come into operation on 31 December 2005.

Access to services, etc.

26.—(1) Where a service is provided by a public body, the head of the body shall—

(*a*) where practicable and appropriate, ensure that the provision of access to the service by persons with and persons without disabilities is integrated,

(*b*) where practicable and appropriate, provide for assistance, if requested, to persons with disabilities in accessing the service if the head is satisfied that such provision is necessary in order to ensure compliance with *paragraph (a)*, and

(*c*) where appropriate, ensure the availability of persons with appropriate expertise and skills to give advice to the body about the means of ensuring that the service provided by the body is accessible to persons with disabilities.

(2) Each head of a public body referred to in *subsection (1)* shall authorise at least one of his or her officers (referred to in this Act as "access officers") to provide or arrange for and co-ordinate the provision of assistance and guidance to persons with disabilities in accessing its services.

(3) This section shall come into operation on 31 December 2005.

Accessibility of services supplied to a public body.

27.—(1) Where a service is provided to a public body, the head of the body shall ensure that the service is accessible to persons with disabilities.

(2) *Subsection (1)* shall not apply if the provision of access by persons with disabilities to any services provided to the body—

(*a*) would not be practicable,

(*b*) would not be justified having regard to the cost of doing so, or

(*c*) would cause unreasonable delay in making the goods or services available to other persons.

(3) In this section references to the provision of services include references to the supply of goods.

(4) This section shall come into operation on 31 December 2005.

Access to information.

28.—(1) Where a public body communicates with one or more persons, the head of the body shall ensure—

(*a*) if the communication is an oral one and the person or persons aforesaid has a hearing impairment and so requests, or

(*b*) if the communication is a written one and the person or persons aforesaid has a visual impairment and so requests,

that, as far as practicable, the contents of the communication are communicated in a form that is accessible to the person concerned.

(2) Where a public body communicates in electronic form with one or more persons, the head of the body shall ensure, that as far as practicable, the contents of the communication are accessible to persons with a visual impairment to whom adaptive technology is available.

(3) The head of a public body shall ensure, as far as practicable, that information published by the body, which contains information relevant to persons with intellectual disabilities, is in clear language that is easily understood by those persons.

(4) This section shall come into operation on 31 December 2005.

Access to heritage sites.

29.—(1) (*a*) The head of a public body shall, as far as practicable, ensure that the whole or a part of a heritage site in its ownership, management or control to which the public has access is accessible to persons with disabilities and can be visited by them with ease and dignity.

(*b*) *Paragraph (a)* shall not apply if its application would—

(i) have a significant adverse effect on the conservation status of a species or habitat or the integrity of a heritage site, or

(ii) compromise the characteristics of the site.

(2) Nothing in this section shall be construed as authorising or requiring the adaptation or modification of any heritage site contrary to law.

(3) In this section "heritage site" includes—

(*a*) a monument within the meaning of the National Monuments Acts 1930 to 2004,

(*b*) a heritage building or a heritage garden or park within the meaning of the Heritage Act 1995,

(*c*) a protected structure or a proposed protected structure, with any attendant grounds, or an architectural conservation area, within the meaning in each case of the Planning and Development Act 2000,

(*d*) a nature reserve which is the subject of an establishment order within the meaning of the Wildlife Acts 1976 and 2000, and

(*e*) a national park owned by the State and under the management and control of the Minister for the Environment, Heritage and Local Government.

(4) This section shall come into operation on 31 December 2007.

Annotations

Amendments:

F7 Amended by *Planning and Development Act 2024* (34/2024), schedule 7, ref. no. 25, not commenced as of date of revision.

F8 Substituted by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), s. 239, not commenced as of date of revision.

Modifications (not altering text):

C8 Prospective affecting provision: subs. (3)(c) amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 25, not commenced as of date of revision.

(*c*) a protected structure or a proposed protected structure, with any attendant grounds, or an architectural conservation area, within the meaning in each case of the F7**[**Planning and Development Act 2024**]**,

C9 Prospective affecting provision: subs. (3)(a) amended by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), s. 239, not commenced as of date of revision.

(3) In this section "heritage site" includes—

(*a*) a monument within the meaning of F8**[**section 2 of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023**]**,

Codes of practice.

30.—(1) The Minister may request the National Disability Authority ("the Authority") to prepare and submit to him or her draft codes of practice for public bodies relating to the matters referred to in *sections 26* to *29*.

(2) In preparing a draft code of practice under *subsection (1)*, the Authority shall consult with such other Ministers of the Government or other persons or bodies as the Authority considers appropriate or as the Minister may direct.

(3) The Minister may approve, refuse to approve or, after consultation with the Authority, amend a draft code of practice.

(4) If the Minister approves, or after the consultation aforesaid, amends a draft code of practice, he or she may by order declare that the draft or, as the case may be, the draft code of practice as amended as aforesaid is an approved code of practice for the purposes of this Act ("an approved code of practice").

(5) The Minister may, after consultation with the Authority, by order revoke or amend an approved code of practice.

(6) Compliance by a public body with an approved code of practice shall be deemed to be compliance with the relevant provision of this Act.

Annotations

Editorial Notes:

E12 Power pursuant to s. 30(4) exercised (23.09.2011) by *Disability Act 2005 (Code of Practice) (Declaration) Order 2011* (S.I. No. 484 of 2011).

E13 Previous affecting provision: power pursuant to s. 30(4) exercised (6.04.2006) by *Disability Act 2005 (Code of Practice) (Declaration) Order 2006* (S.I. No. 163 of 2006); superseded as per E-note above.

Sectoral plans.

31.—(1) Each of the following Ministers of the Government—

(*a*) the Minister for Health and Children,

(*b*) the Minister for Social and Family Affairs,

(*c*) the Minister for Transport,

(*d*) the Minister for Communications, Marine and Natural Resources,

(*e*) the Minister for the Environment, Heritage and Local Government, and

(*f*) the Minister for Enterprise, Trade and Employment,

F9**[**(*g*) the Minister for Children, Equality, Disability, Integration and Youth,**]**

shall prepare and publish a plan (referred to in this Act as a "sectoral plan") in relation to the matters specified in *sections 32* to *37* outlining the programme of the measures proposed to be taken by or on behalf of the Minister of the Government concerned for and in relation to those matters as they relate to the provision of services to persons with specified disabilities by him or her or by public bodies or other persons in relation to which he or she performs functions or allocates moneys under *section 5*.

(2) Before publishing a sectoral plan under *subsection (1)*, a Minister of the Government shall consult with such persons representative of persons with disabilities as he or she considers appropriate.

(3) A sectoral plan prepared by a Minister of the Government under *subsection (1)*—

(*a*) may be amended by him or her by another plan under that subsection,

(*b*) may be revoked by him or her by another plan under that subsection replacing the first-mentioned plan or amending another plan under that subsection,

(*c*) may be revoked by him or her by an instrument in writing that neither replaces nor amends another plan under that subsection and is made in the manner in which the plan being revoked was made.

(4) A sectoral plan shall contain—

(*a*) appropriate information concerning codes of practice (if any) and regulations (if any) relating to the subject matter of the plan,

(*b*) the complaints procedure to be provided by a public body or by other persons in relation to any matters which are the subject of the plan,

(*c*) monitoring and review procedures in relation to the subject matter of the plan,

(*d*) a statement of the intervals at which reports shall be prepared relating to the progress made in the implementation of the plan, being intervals of not more than 3 years from the date of the publication of the plan under this section,

(*e*) if appropriate, the level of access relating to the services specified in the plan, and

(*f*) such other matters (if any) as the Minister of the Government concerned considers appropriate.

(5) Where an accessible public transport service and associated buildings and infrastructure are required by a sectoral plan to be provided by a specified date ("the specified date") and the specified date is later than the date which would otherwise apply by virtue of *sections 25* to *29*, the service, buildings or infrastructure may be provided at any time before the specified date.

(6) When a sectoral plan is prepared by a Minister of the Government it shall be laid before each House of the Oireachtas as soon as may be but in the case of the first such plan not later than one year after the commencement of this section and the plan shall not have effect until a resolution approving of the plan has been passed by each House of the Oireachtas.

(7) When a report is prepared by a Minister of the Government under this section, it shall be laid before each House of the Oireachtas as soon as may be.

Annotations

Amendments:

F9 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 49, S.I. No. 666 of 2022.

Sectoral plan of Minister for Health and Children.

32.—(1) A sectoral plan prepared by the Minister for Health and Children ("the Minister") shall contain information concerning—

(*a*) services provided by or on behalf of the Minister to persons with disabilities,

(*b*) the criteria governing the eligibility of such persons for services under the Health Acts 1947 to 2004,

(*c*) F10**[**...**]**

(*d*) F10**[**...**]**

(*e*) such other matters (if any) as the Minister considers appropriate.

(2) A plan referred to in *subsection (1)* shall provide for appropriate co-operation by the Minister with the Minister for Social and Family Affairs and the Minister for Enterprise, Trade and Employment ("the two Ministers") in relation to the development and co-ordination of services provided by the two Ministers for persons with disabilities and related to the services referred to in *subsection (1)*.

Annotations

Amendments:

F10 Deleted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 50, S.I. No. 666 of 2022.

F11**[**Sectoral plan of Minister for Children, Equality, Disability, Integration and Youth**]**

F11**[32A.**—(1) A sectoral plan prepared by the Minister for Children, Equality, Disability, Integration and Youth ('the Minister') shall contain information concerning—

(*a*) specialist community-based disability services,

(*b*) the proposed arrangements for the implementation of *Part 2*,

(*c*) arrangements for cooperation by the Executive with housing authorities in relation to the development and co-ordination of the services provided by housing authorities for persons with disabilities, and

(*d*) such other matters (if any) as the Minister considers appropriate.

(2) A plan referred to in *subsection (1)* shall provide for appropriate co-operation by the Minister with the Minister for Health, the Minister for Social Protection and the Minister for Enterprise, Trade and Employment ("the three Ministers") in relation

to the development and co-ordination of services provided by the three Ministers for persons with disabilities and related to the services referred to in *subsection (1)*.

(3) In this section, "specialist community-based disability services" has the same meaning as it has in the Health Act 2004.**]**

Annotations

Amendments:

F11 Inserted (01.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 51. S.I. No. 666 of 2022.

Sectoral plan of Minister for Social and Family Affairs.

33.—(1) A sectoral plan prepared by the Minister for Social and Family Affairs ("the Minister") shall contain information concerning—

(*a*) the criteria governing the eligibility of persons with disabilities for payments under the Social Welfare Acts and the amounts of such payments,

(*b*) the information, advice and advocacy services and sign language interpretation services provided or arranged to be provided to those persons by Comhairle,

(*c*) any other services provided by or on behalf of the Minister which the Minister considers appropriate, and

(*d*) such other matters (if any) as the Minister considers appropriate.

(2) A plan referred to in *subsection (1)* shall provide for appropriate co-operation by the Minister with the Minister for Enterprise, Trade and Employment and the Minister for Health and Children ("the two Ministers") in relation to the development and co-ordination of services provided by the two Ministers for persons with disabilities and related to the services referred to in *subsection (1)*.

Sectoral plan of Minister for Transport.

34.—A sectoral plan of the Minister for Transport ("the Minister") shall contain information concerning—

(*a*) a programme of projected measures for the provision of access to persons with disabilities to passenger transport services for the general public provided by the Minister or by a public body in relation to which he or she performs functions or by a person or body licensed or regulated by the Minister,

(*b*) measures to be taken for the purpose of facilitating access by persons with disabilities to such services and the time within which such measures are to be taken,

(*c*) arrangements proposed to be put in place by the Minister and the Minister for the Environment, Heritage and Local Government to facilitate access to the vehicles providing the passenger transport services by such persons from a public road, and

(*d*) any other matter which the Minister considers appropriate.

Sectoral plan of Minister for Communications, Marine and Natural Resources.

35.—(1) A sectoral plan prepared by the Minister for Communications, Marine and Natural Resources shall contain information concerning—

(*a*) measures to be taken by the operators of passenger ships for the purpose of facilitating access by persons with disabilities to marine passenger transport services provided by them and the time within which the measures are to be taken,

(*b*) measures to be taken by the bodies responsible for the control and operation of specified ports and harbours for the purpose of facilitating access by those persons to places therein where such services originate or terminate in and the time within which such measures are to be taken, and

(*c*) any other matter which the Minister considers appropriate.

(2) In this section "passenger ships" means passenger ships within the meaning of the Merchant Shipping Act 1992 and passenger steamers within the meaning of the Merchant Shipping (Safety Convention) Act 1952.

Annotations

Modifications (not altering text):

C10 Functions in relation to section transferred (1.01.2006) by *Maritime Transport, Safety and Security (Transfer of Departmental Administration and Ministerial Functions) Order 2005* (S.I. No. 842 of 2005), arts. 3, 4 and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 5-9.

3. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 4 of this Order are transferred to the Department of Transport.

(2) References to the Department of Communications, Marine and Natural Resources contained in any Act or instrument made thereunder and relating to any administration and business transferred by paragraph (1) of this Article shall, from the commencement of this Order, be construed as references to the Department of Transport.

4. (1) The functions vested in the Minister for Communications, Marine and Natural Resources-

(*a*) by or under the Acts specified in Part 1,

(*b*) by or under the provisions of the Acts specified in Part 2, and

(*c*) under the Regulations specified in Part 3,

of the Schedule to this Order are transferred to the Minister for Transport.

(2) References to the Minister for Communications, Marine and Natural Resources contained in any Act or instrument made thereunder and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Transport.

...

Schedule

...

Part 2

Provisions of Acts

...

Section 35(1)(a) and (b) of the Disability Act 2005 (No. 14 of 2005) and, in so far as it relates to maritime transport, safety and security, paragraph (c) of that subsection

...

Sectoral plan of Minister for the Environment, Heritage and Local Government.

36.—(1) A sectoral plan prepared by the Minister for the Environment, Heritage and Local Government ("the Minister") shall contain information concerning—

(*a*) measures to be taken to ensure compliance with Part M of the Building Regulations 1997 (S.I. No. 497 of 1997),

(*b*) measures to be taken to facilitate access by persons with disabilities to public roads and other public places and to other services provided by the Minister, local authorities or other public bodies in relation to which he or she performs functions and the time proposed within which such measures are to be taken,

(*c*) arrangements proposed to be put in place by the Minister and the Minister for Transport to facilitate access to the vehicles providing the passenger transport services by such persons from a public road,

(*d*) housing and accommodation for persons with disabilities,

(*e*) proposed arrangements for co-operation by housing authorities with the Executive in relation to the development and co-ordination of the services provided by housing authorities for persons with disabilities, and

(*f*) any other matters which the Minister considers appropriate.

(2) In this section "public places" includes—

(*a*) street furniture, pavements and pedestrian zones,

(*b*) signage,

(*c*) public parks and open spaces owned or maintained by a local authority,

(*d*) harbours, bus and light rail stops for which a local authority is responsible,

but does not include a public building under *section 25* or a service to which *section 26* or *27* applies.

Sectoral plan of Minister for Enterprise, Trade and Employment.

37.—(1) A sectoral plan prepared by the Minister for Enterprise, Trade and Employment ("the Minister") shall contain information concerning—

(*a*) vocational training and employment support services and programmes made available to persons with disabilities by An Foras Áiseanna Saothair,

(*b*) a programme of the measures proposed to be taken for and in relation to the provision of appropriate vocational training and employment support services to facilitate the integration of persons with disabilities into employment,

(*c*) measures to be taken to review the delivery of such training and services and the time within which such review is to be carried out,

(*d*) any measures to be taken to ensure more effective provision of such training and services, and

(*e*) any other matters which the Minister considers appropriate.

(2) A plan referred to in *subsection (1)* shall provide for appropriate co-operation by the Minister with the Minister for Social and Family Affairs and the Minister for Health and Children ("the two Ministers") in relation to the development and co-ordination of services related to the foregoing services provided by the two Ministers for persons with disabilities.

Complaints.

38.—A person may by himself or through a person referred to in *section 9(2)* make a complaint in writing to the head of a public body in relation to the failure of the body to comply with *section 25, 26, 27, 28* or *29* of this Act.

Inquiry officers.

39.—(1) The head of a public body may authorise such and so many officers of the body as he or she considers appropriate (referred to in this Act as "inquiry officers") to perform the functions conferred on inquiry officers by this section.

(2) The head of a public body shall draw up procedures in relation to the making and investigation of complaints and such other matters relating to complaints as he or she considers appropriate and shall cause the procedures to be published.

(3) An inquiry officer shall be independent in the performance of his or her functions.

(4) Following the receipt of a complaint by the head of a public body under *section 38*, he or she shall refer the matter to an inquiry officer.

(5) When a complaint is referred to an inquiry officer under *subsection (4)*, he or she shall (unless he or she is of opinion that it is frivolous or vexatious in which case he or she shall notify the public body and the complainant to that effect) investigate the complaint and prepare a report in writing of the results of his or her investigation and furnish a copy of it to the head of the public body concerned and to the person who made the complaint.

(6) A report under *subsection (5)* shall set out the findings of the inquiry officer concerned together with a determination in relation to the following matters, namely—

(*a*) in case the determination is that the complaint is not frivolous or vexatious, whether there has been a failure by the public body the subject of the complaint to comply with a provision referred to in *section 38*, and

(*b*) in case the determination is that there has been such a failure, the steps required to be taken by the public body concerned to comply with the provision concerned.

(7) An investigation by an inquiry officer under this Act shall be conducted otherwise than in public.

(8) In this section "complaint" means a complaint under *section 38*.

Application of Ombudsman Act 1980.

40.—Notwithstanding anything contained in the Ombudsman Act 1980, that Act shall apply to a determination of an inquiry officer or a decision of a complaints officer in relation to a sectoral plan with the following and any other necessary modifications as if it were an action taken by or on behalf of a F12**[**reviewable agency (within the meaning of that Act)**]**:

(*a*) in section 1, in subsection (1), the following shall be inserted after the definition of "functions":

" 'head', in relation to a public body, and 'public body', have the meanings assigned to them by the *Disability Act 2005*;";

(*b*) in section 4, in subsection (2), the words from and including F12**[**"in the performance"**]** to the end of the subsection and subsection (4) shall be deleted;

(*c*) in section 5, in subsection (1)(*a*), subparagraph (iii) shall be deleted;

(*d*) in section 6, the following subsection shall be substituted for F12**[**subsections (3) and (3A)**]**:

"(3) Where, following an investigation under this Act into an action, it appears to the Ombudsman that, by reason of a failure to comply with a provision of *Part 3* of the *Disability Act 2005* or of a sectoral plan under that Part, the action adversely affected a person by or on whose behalf a complaint was made under *section 38*, or in accordance with the procedure for complaints provided for pursuant to *section 31(4)(b)*, of that Act or any other person and the Ombudsman considers that in all the circumstances he or she should do so, he or she may recommend to the head of the public body concerned or to any other person concerned—

(*a*) that the matter in relation to which the action was taken be further considered,

(*b*) that measures or specified measures be taken to remedy, mitigate or alter the adverse effect of the action, or

(*c*) that the reasons for taking the action be given to the Ombudsman,

and, if the Ombudsman thinks fit to do so, he or she may request the head of the public body or that other person to notify him or her within a specified time of his or her response to the recommendation.";

and

(*e*) in section 7, the following subsection shall be inserted after subsection (1):

"(1A) (*a*) An officer of the Ombudsman authorised in writing in that behalf by the Ombudsman may, for the purposes of a preliminary examination or an investigation under section 4 in relation to a public body or any other person concerned carried out by virtue of *section 40* of the *Disability Act 2005*—

(i) at all reasonable times enter any premises occupied by the body or other person aforesaid,

(ii) search the premises and any books, documents or other records found there by him or her,

(iii) require any person on the premises who is employed by the body or other person to give to him or her such information within his or her knowledge or procurement (including, in the case of such information in a non-legible form, a reproduction of it in a legible form), or such records as aforesaid in his or her possession or within his or her procurement, as he or she may reasonably require for the purposes aforesaid,

(iv) examine and take copies of, or of extracts from, any such records as aforesaid and remove and retain any such records for such period as may be reasonable for further examination,

(v) require any such person as aforesaid who has in his or her possession any such records to retain them for such reasonable period as he or she may direct, and

(vi) take on to the premises and use there a camera or other recording apparatus or any other equipment, for the purpose of facilitating the proof of any non-compliance with *Part 3* of the *Disability Act 2005* found or suspected by the officer on the premises.

(*b*) In paragraph (*a*), 'premises' includes a structure or place and a vehicle, ship or other vessel and the reference to occupied in that paragraph shall be construed, in relation to a vehicle, ship or other vessel, as a reference to owned, used or operated.

(*c*) A person who—

(i) obstructs or impedes an officer of the Ombudsman while he or she is performing a function under this section,

(ii) fails or refuses to comply with a requirement under this section,

(iii) alters, disposes of or destroys any books, documents or other records which the person has been required under this section to give to such an officer or may reasonably expect to be required so to do, or

(iv) gives to such an officer information which is false or misleading in a material respect,

is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000.

(*d*) When performing any of his or her functions under this subsection, an officer of the Ombudsman shall, if so requested by any person affected, produce to the person his or her authorisation under paragraph (*a*) or a copy of it.".

Annotations

Amendments:

F12 Substituted (31.10.2012) by *Ombudsman (Amendment) Act 2012* (38/2012), s. 25, commenced as per s. 1(3).

PART 4

Genetic Testing

Interpretation (*Part 4*).

41.—In this Part—

F13**[**...**]**

F14**[**"Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[33] on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);**]**

"genetic data" means data relating to a living person derived from genetic testing of the person;

"genetic testing" means the examination of samples taken from a living person for the purpose of analysing the person's deoxyribonucleic or ribonucleic acid by means of chromosomal analysis or by any other means for the purpose of—

(*a*) confirming the identity or nature of an existing symptomatic disease,

(*b*) ascertaining whether the person has a genetic predisposition or susceptibility to a disease, or

(*c*) identifying the carrier of a disease;

F15**[**"processing" means processing within the meaning of the Data Protection Regulation;**]**

Annotations

Amendments:

F13 Deleted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 202(c)(i), S.I. No. 174 of 2018.

F14 Inserted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 202(c)(iii), S.I. No. 174 of 2018.

F15 Substituted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 202(c)(ii), S.I. No. 174 of 2018.

Genetic testing and processing of genetic data.

42.—(1) Genetic testing shall not be carried out on a person unless—

(*a*) the testing is not prohibited by law, and

[33] OJ No. L 119, 4.5.2016, p.1

(*b*) the consent of the person to the processing of any genetic data to be derived from the testing has been obtained in accordance with F16**[**the Data Protection Regulation**]**.

(2) A person shall not engage in the processing of genetic data in relation to—

(*a*) the employment of a person F17**[**...**]**,

(*b*) a policy of insurance or life assurance,

(*c*) a policy of health insurance or health-related insurance,

(*d*) an occupational pension, a retirement annuity contract or any other pension arrangement,

(*e*) the mortgaging of property.

(3) A person shall not process genetic data unless all reasonable steps have been taken to provide the data subject with all appropriate information concerning—

(*a*) the purpose and possible outcomes of the proposed processing, and

(*b*) any potential implications for the health of the data subject which may become known as a result of the processing.

F16**[**(4) A person who contravenes *subsection (2)* or *(3)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine, or

(b) on conviction on indictment, to a fine not exceeding €100,000.**]**

F18**[**(5) Where a person is convicted of an offence under *subsection (4)*, the court may order any personal data that appears to the court to be connected with the commission of the offence to be destroyed or erased.

(6) The court shall not make an order under *subsection (5)* where it considers that a person other than the person convicted of the offence concerned may be the owner of, or otherwise interested in, the data concerned, unless such steps as are reasonably practicable have been taken for notifying that person and giving him or her an opportunity to show cause why the order should not be made.**]**

Annotations

Amendments:

F16 Substituted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 202(d)(i), (iii), S.I. No. 174 of 2018. A class A fine means a fine not greater than €5,000 as provided (4.01.2011) by *FInes Act 2010* (8/2010), ss. 3, 4(1), S.I. No. 662 of 2010.

F17 Deleted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 202(d)(ii), S.I. No. 174 of 2018.

F18 Inserted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 202(d)(iv), S.I. No. 174 of 2018.

Family history information.

43.—F19**[**...**]**

Annotations

Amendments:

F19 Repealed (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 202(e), S.I. No. 174 of 2018.

Editorial Notes:

E14 Previous affecting provision: subs. (2)(c) amended (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 15(8) and sch. 2 part 8 item 1, S.I. No. 469 of 2010; section repealed as per F-note above.

Review of operation of this Part.

44.—(1) The Minister shall initiate, not later than 1 January 2014, a review of the operation of this Part and shall ensure that the review is carried out.

(2) The person carrying out a review under *subsection (1)* shall consult with such other Ministers of the Government as he or she considers appropriate, the Data Protection Commissioner, the F20**[**Central Bank of Ireland**]** and such other persons or bodies as he or she considers appropriate.

Annotations

Amendments:

F20 Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 15(8) and sch. 2 part 8 item 2, S.I. No. 469 of 2010.

Modifications (not altering text):

C11 Reference to Data Protection Commissioner construed (25.05.2018, establishment day) by *Data Protection Act 2018* (7/2018), s. 14(2), commenced as per subs. (4) and S.I. No. 175 of 2018.

Transfer of functions of Data Protection Commissioner to Commission

14. (1) All functions that, immediately before the establishment day, were vested in the Data Protection Commissioner are transferred to the Commission.

(2) A reference in any enactment or instrument under an enactment to the Data Protection Commissioner or to the Office of the Data Protection Commissioner shall be construed as a reference to the Commission.

...

Saver.

45.—(1) F21**[**...**]**

(2) Nothing in this Part shall be construed as prohibiting the taking and use in accordance with law of bodily samples for the purpose of forensic testing or analysis in connection with the investigation of an offence, or for any other purpose not prohibited by law, by or on behalf of the Garda Síochána or the processing by them of genetic data (if any) derived from such testing or analysis.

Annotations

Amendments:

F21 Deleted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 202(f), S.I. No. 174 of 2018.

PART 5

Public Service Employment

Interpretation (*Part 5*).

46.—(1) In this Part—

"Authority" means National Disability Authority;

"civil servant" has the same meaning as it has in the Civil Service Regulation Act 1956;

"relevant Minister" means relevant Minister of the Government;

"relevant Minister of the Government"—

(*a*) in relation to a Department of State or any other public body, the members of whose staff are civil servants, means the Minister for Finance,

(*b*) in relation to any other public body, being a public body that is accountable to a Minister of the Government, means that Minister of the Government.

(2) The following public bodies are deemed to be accountable to the following Ministers of the Government for the purposes of this Part—

(*a*) a local authority, the Minister for the Environment, Heritage and Local Government,

(*b*) the Executive, the Minister for Health and Children,

(*c*) a person, body, organisation or group established by or under any enactment (other than the Companies Acts 1963 to 2003), the Minister of the Government—

(i) whose function it is to appoint the person, body, organisation or group or, if appropriate, one or more of its members, and

(ii) who finances the person, body, organisation or group, wholly or partly, whether directly or indirectly, by means of moneys provided by him or her, or loans made or guaranteed by him or her, or shares held by him or her in, the person, body, organisation or group,

and

(*d*) a person, body, organisation or group established under the Companies Acts 1963 to 2003 in pursuance of powers conferred by or under another enactment, and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government, or shares held by or on behalf of a Minister of the Government, that Minister of the Government.

(3) This Part does not apply to the Defence Forces, F23**[**members of An Garda Síochána within the meaning of the Policing, Security and Community Safety Act 2024**]** or prison officers of a prison.

Annotations

Amendments:

F22 Substituted (26.04.2023) by *Assisted Decision-Making (Capacity) (Amendment) Act 2022* (46/2022), s. 101(a), S.I. No. 194 of 2023.

F23 Substituted (2.04.2025) by *Policing, Security and Community Safety Act 2024* (1/2024), s. 278, S.I. No. 107 of 2025.

Employment in public service.

47.—(1) A public body shall—

(*a*) in so far as practicable take all reasonable measures to promote and support the employment by it of persons with disabilities,

(*b*) have regard to any relevant codes of practice approved under *section 50* and section 10A of the Act of 1999 by the relevant Minister.

(2) A public body shall ensure, unless there is good reason to the contrary for not doing so, that it reaches any compliance targets prescribed under *subsection (3)*.

(3) (*a*) The Minister for Finance may, with the consent of the Minister, by order specify compliance targets relating to the recruitment and employment of persons with disabilities in public bodies the members of whose staff are civil servants and the public bodies accountable to him or her.

(*b*) The Minister may, with the consent of the Minister for Finance, by order specify compliance targets relating to the recruitment and employment of persons with disabilities in the public bodies accountable to him or her.

(*c*) Any other Minister of the Government may, with the consent of the Minister and the Minister for Finance, by order specify compliance targets relating to the recruitment and employment of persons with disabilities in the public bodies accountable to him or her.

(*d*) In such an order as aforesaid the relevant Minister of the Government concerned may specify numbers or percentages of persons with disabilities to be recruited by the public body concerned, and if it appears to him or her to be necessary, he or she may specify—

(i) the numbers or percentages of persons with disabilities to be employed by the public body concerned,

(ii) the holding of recruitment competitions confined to persons with disabilities in relation to specific posts or employments,

(iii) measures for the filling, by suitably qualified persons with disabilities, of specified categories of vacancies for such period as he or she considers appropriate,

(iv) that the public body concerned shall offer a specified number of work experience placements of specified duration to persons with disabilities each year.

F24**[**(4) If no compliance targets stand prescribed under *subsection (3)* in relation to a public body, the body shall ensure, unless there is good reason to the contrary, that—

(*a*) for the period from the date of commencement of section 101(b) of the Assisted Decision-Making (Capacity) (Amendment) Act 2022 up to and including 31 December 2023, not less than 3 per cent of the persons employed by it are persons with disabilities,

(*b*) for the period from 1 January 2024 up to and including 31 December 2024, not less than 4.5 per cent of the persons employed by it are persons with disabilities, and

(*c*) on and from 1 January 2025, not less than 6 per cent of the persons employed by it are persons with disabilities.**]**

(5) An order under *subsection (3)* may relate to all public bodies, or specified public bodies, that are accountable to the relevant Minister who makes the order.

(6) A Minister of the Government shall, when making an order under *subsection (3)*, have regard to any measures that have been specified by the Authority under *section 49(2)* in relation to any public body to which the order applies.

(7) An order under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister of the Government making the order to be necessary or expedient for the purposes of the order.

(8) An order under this section (including this subsection) may be revoked or amended by the Minister of the Government who made it subject to the like consent or consents as that or those to which such making is subject.

Annotations

Amendments:

F24 Substituted (26.04.2023) by *Assisted Decision-Making (Capacity) (Amendment) Act 2022* (46/2022), s. 101(b), S.I. No. 194 of 2023.

Modifications (not altering text):

C12 Functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 14 of 2005	Disability Act 2005	Sections 3 and 47
...	...	...

Monitoring of compliance with this Part.

48.—(1) A Minister of the Government shall establish a committee (which shall be known as "a monitoring committee") in respect of the public bodies in relation to which he or she is the relevant Minister.

(2) Subject to *subsection (7)* a public body shall, not later than 31 March in each year, draw up a report in writing in relation to its compliance with this Part during the preceding year and submit it to the relevant monitoring committee.

(3) A monitoring committee shall monitor and, in consultation with the Authority, encourage compliance with this Part by the public bodies in respect of which it was established.

(4) A monitoring committee shall consist of not less than 5 members who shall be appointed by the relevant Minister concerned and of whom—

(*a*) at least one is an officer of the relevant Minister,

(*b*) one is representative of persons with disabilities and who may be a member of the staff of a public body,

(*c*) one is representative of public bodies as employers or of employers generally, and

(*d*) one is representative of employees of the public bodies concerned or of employees generally.

(5) A monitoring committee shall—

(*a*) appoint its chairperson,

(*b*) meet not less than 3 times each year,

(*c*) subject to *paragraph (b)*, determine its own procedures, and

(*d*) subject to *subsection (7)*, not later than 30 June in each year, draw up a report in writing in relation to compliance with *section 47* during the preceding year by the public body or bodies concerned and submit it to the Authority and the relevant Minister by whom it was established.

(6) (*a*) A report referred to in *subsection (2)* or *(5)(d)* shall be in such form, and contain such particulars, as the Authority in consultation with the relevant Minister, may direct.

(*b*) In performing its functions under this section, the Authority shall have regard to section 15(2) of the Act of 1999.

(7) The first reports under *subsections (2)* and *(5)(d)* shall be in respect of the period from the commencement of this section to the end of the year following such commencement and the reference in *subsection (2)* to 31 March in each year and in *subsection (5)(d)* to 30 June in each year shall, in relation to those reports, be construed as references, respectively, to 31 March in the year following such commencement and 30 June in that year.

Action to achieve compliance with this Part.

49.—(1) A public body shall, at the request of the relevant Minister, or of the Authority, following consultation with that Minister, furnish not more than 3 months after the making of the request, that Minister or the Authority, as the case may be, with any information that that Minister or the Authority requires in order to determine whether the body is complying with this Part.

(2) Where, either—

(*a*) at the end of any 2 successive years a public body is, in the opinion of the Authority, not complying with this Part, or

(*b*) (i) a public body has not complied with *subsection (1)*, and

(ii) the relevant Minister or the Authority is of opinion that the body may not be complying with another provision of this Part,

the Authority may, with the consent of the relevant Minister, request the body to take such measures as it may specify to ensure such compliance and the public body shall comply with such request.

(3) The measures referred to in *subsection (2)* may include—

(*a*) the provision by or on behalf of the body concerned of the training or education of persons with disabilities who are employed by the body, either in or outside it for the purpose of qualifying them for specific posts or employments in the body,

(*b*) the amendment of the requirements for particular posts or employments in the body to enable persons with disabilities to compete for posts or employments in the body in relation to which the work is similar or of equal value,

(*c*) measures for the filling, by suitably qualified such persons, of employment vacancies or specified such vacancies or of categories of such vacancies in the body, either for a specified period or until the provisions of this Part have been complied with,

(*d*) the holding of competitions for recruitment to specific posts or employments which are confined to such persons,

(*e*) the making of reasonable alterations to the work premises or environment of the body concerned and the provision of suitable technical or organisational supports so as to reasonably facilitate the employment by the body of persons with disabilities and to support existing employees of the body who are persons with disabilities in the performance of their duties,

(*f*) the provision of information to employees of the body to increase their awareness and understanding of the contribution that persons with disabilities may make to the work of the body.

Codes of practice in respect of employment in public service.

50.—(1) (*a*) A Minister of the Government may approve codes of practice prepared by the Authority or such persons as may be requested by him or her for the purpose of giving guidance to public bodies in relation to which he or she is the relevant Minister in respect of the implementation of this Part or such provisions of this Part as that Minister of the Government may specify.

(*b*) In performing functions under *paragraph (a)*, the Minister of the Government concerned shall consult with the Authority and the relevant monitoring committee established by him or her under *section 48*.

(*c*) A Minister of the Government may, after consultation with the Authority and the relevant monitoring committee, by order revoke or amend an approved code of practice approved by him or her under *paragraph (a)*.

(2) The Act of 1999 is amended—

(*a*) in section 8(2)(*f*), by the substitution of "sections 10 and 10A" for "section 10", and

(*b*) by the insertion of the following section after section 10:

"Codes of practice in relation to *Part 5* of *Disability Act 2005*.

10A.—(1) The Authority shall, if requested by a Minister of the Government, prepare and submit to that Minister draft codes of practice giving guidance to public bodies in relation to which he or she is the relevant Minister in respect of the implementation of *Part 5* of the *Disability Act 2005* or specified provisions thereof.

(2) In preparing a draft code of practice under subsection (1), the Authority shall consult the relevant Minister concerned and the relevant monitoring committee.

(3) Following the submission of a draft code of practice under subsection (1) to the relevant Minister, he or she may, after consultation with the Authority and the relevant monitoring committee, by order declare that—

(*a*) he or she does not approve of the draft code of practice,

(*b*) he or she approves of the draft code of practice and that, accordingly, it is an approved code of practice for the purposes of *Part 5* of the *Disability Act 2005*, or

(*c*) he or she approves of the draft code as amended by him or her and that, accordingly, it is an approved code of practice for the purposes of *Part 5* of the *Disability Act 2005*.

(4) The relevant Minister concerned may, after consultation with the Authority and the relevant monitoring committee, by order amend or revoke an approved code of practice for the purposes of *Part 5* of the *Disability Act 2005*.

(5) In this section—

'relevant Minister' has the same meaning as it has in *Part 5* of the *Disability Act 2005*;

'monitoring committee' means a committee established under *section 48* of the *Disability Act 2005*.",

and

(*c*) in section 15, by the insertion of the following subsection after subsection (5):

"(6) (*a*) Subject to paragraph (*c*), the Authority shall include in a report under subsection (1), particulars of the information furnished to it in reports under *subsection (5)(d)* of *section 48* of the *Disability Act 2005* and send a copy of the report to the Minister and any other Minister of the Government to whom, having regard to his or her functions, the Authority considers it should be sent.

(*b*) Subject to paragraph (*d*), a report under subsection (1) shall include—

(i) an assessment of the extent to which each Department of State or other public body complied with *section 47* of the *Disability Act 2005* during the year to which the report relates and the extent to which any factors outside its control may have contributed to any non-compliance with that section, and

(ii) if appropriate, a recommendation that, a Department of State or other public body should take specified measures to facilitate or achieve compliance with that section.

(*c*) The Authority may, where it considers appropriate, prepare, and submit to the Minister not later than 30 November in each year, a report (other than a report under subsection (1)) setting out the particulars referred to in paragraph (*a*), and where it so does it shall be deemed to have complied with that paragraph.

(*d*) The Authority may, where it considers appropriate, prepare, and submit to the Minister not later than 30 November in each year, a report (other than a report under subsection (1)) containing—

(i) an assessment, and

(ii) if appropriate, a recommendation,

referred to in paragraph (*b*), and where it so does it shall be deemed to have complied with that paragraph.".

Positive action measures.

51.—Nothing in this Part precludes the taking of measures referred to in section 33 of the Employment Equality Act 1998 (as amended by section 22 of the Equality Act 2004).

PART 6

Centre for Excellence in Universal Design

Amendment of Act of 1999.

52.—Part II of the Act of 1999 is amended by inserting the following Chapter after Chapter I:

"Chapter IA
Centre for Excellence in Universal Design

Interpretation.

19A.—In this Chapter—

'the Centre' shall be construed in accordance with section 19B;

'environment', in relation to any area, means any buildings and any public places in that area and any products used, services provided and systems (including electronic systems) available for operation in that area;

'public place' means any place to which the public has access whether as of right or by permission and whether subject to or free of charge;

'universal design'—

(*a*) means the design and composition of an environment so that it may be accessed, understood and used—

(i) to the greatest practicable extent,

(ii) in the most independent and natural manner possible,

(iii) in the widest possible range of situations, and

(iv) without the need for adaptation, modification, assistive devices or specialised solutions,

by persons of any age or size or having any particular physical, sensory, mental health or intellectual ability or disability,

and

(*b*) means, in relation to electronic systems, any electronics-based process of creating products, services or systems so that they may be used by any person.

Centre for Excellence in Universal Design.

19B.—(1) There shall be in the Authority a centre which shall be known as the Centre for Excellence in Universal Design and is referred to in this Part as 'the Centre'.

(2) The Centre shall consist of such members of the staff of the Authority as it may designate from time to time.

(3) There shall be a chief officer of the Centre ('the chief officer') who shall be a member of the staff of the Centre designated by the Authority from time to time.

(4) Members of the staff of the Centre, including the chief officer, may be transferred by the Authority to other positions in the Authority and, upon being so transferred, shall cease to be members of the staff of the Centre and, in the case of the transfer of a member who is the chief officer, shall also cease to be the chief officer.

(5) Subject to section 19D, the functions of the Centre shall be performed by the chief officer. Subject as aforesaid, those functions or specified such functions may be performed by another member of the staff of the Centre authorised in that behalf by the chief officer.

Functions of Centre.

19C.—(1) The Centre shall facilitate the achievement of excellence in universal design by contributing to the development and promulgation of standards in that regard.

(2) In relation to the universal design of electronic systems, the Centre shall—

(*a*) support and assist in the development of standards of excellence by liaising with appropriate national and international standards bodies for this purpose,

(*b*) recommend those standards for adoption by bodies operating in the fields of information technology and tele-communications,

(*c*) encourage compliance by the bodies aforesaid with appropriate national and international standards in universal design, and

(*d*) provide information to those bodies in relation to the practical and theoretical aspects of supportive technologies.

(3) In relation to assisting and promoting the introduction of the principles of universal design to courses of education and training, the Centre shall liaise with vocational and third level educational institutions and with professional bodies to—

(*a*) encourage the training in universal design of persons providing—

(i) courses of education and training in universal design for persons preparing to engage in work affecting the environment, or

(ii) courses of training for persons engaged in such work,

(*b*) ensure as far as practicable that courses of education and training in the principles of universal design are provided for persons engaged in such work, including architects, engineers, town planners, systems analysts, software designers, transport providers and designers of passenger transport vehicles and passenger vessels,

(*c*) ensure the development of appropriate curricula so that the concept of universal design forms an integral part of the aforesaid courses,

(*d*) ensure as far as practicable that examinations recognised by professional bodies in such courses include material relating to those principles.

(4) In relation to the continued development of the principles of universal design, the Centre shall—

(*a*) assist in the development of knowledge, skills, understanding and values so as to enable persons engaged in work affecting the environment to strive towards achieving an environment that is universally designed,

(*b*) promote public awareness of the difficulties encountered by persons with disabilities in relation to the environment.

(5) The Centre shall engage in such practical and theoretical work in respect of matters relating to universal design as the Minister may specify from time to time.

Partnership arrangements.

19D.—Notwithstanding any provision of any other enactment, the Authority may, with the consent of the Minister and the Minister for Finance, make an arrangement, on such terms and conditions as it considers appropriate, with a person or persons for the performance, in partnership with the Authority, of specified functions of the Centre.".

PART 7

Miscellaneous

Amendment of section 19 of Broadcasting Act 2001.

53.—F25**[**...**]**

Annotations

Amendments:

F25 Repealed (12.07.2009) by *Broadcasting Act 2009* (18/2019), s. 3 and sch. 1, commenced on enactment.

Offences by bodies corporate, etc.

54.—(1) Where—

(*a*) an offence under this Act is committed by a body corporate, and

(*b*) the offence is proved to have been committed with the consent, connivance or approval of, or to have been attributable to any neglect on the part of, a person who was either—

(i) a director, manager, secretary or other similar officer of the body corporate, or

(ii) a person purporting to act in any such capacity,

that person as well as the body corporate is also guilty of an offence and liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* shall apply in relation to the acts or defaults of a member in connection with the member's functions of management as if he or she were a director or manager of the body corporate.

(3) *Subsections (1)* and *(2)* shall apply, with the necessary modifications, in relation to offences under this Act committed by an unincorporated body.

Offences.

55.—(1) A person who is guilty of an offence under this Act for which no penalty is provided is liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both.

(2) If the contravention in respect of which a person is convicted of an offence under any provision of this Act is continued after the conviction, the person is guilty of a further offence on every day on which the contravention continues and for each such offence is liable on summary conviction to a fine not exceeding €350.

(3) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.

(4) Proceedings for a summary offence may be brought and prosecuted by—

(*a*) the Minister for Health and Children in respect of such offences under *Part 2*,

(*b*) the Ombudsman in respect of such offences under *section 40*,

(*c*) the Data Protection Commissioner in respect of such offences under *Part 4*.

Annotations

Modifications (not altering text):

C13 Reference to Data Protection Commissioner construed (25.05.2018, establishment day) by *Data Protection Act 2018* (7/2018), s. 14(2), commenced as per subs. (4) and S.I. No. 175 of 2018.

Transfer of functions of Data Protection Commissioner to Commission

14. (1) All functions that, immediately before the establishment day, were vested in the Data Protection Commissioner are transferred to the Commission.

(2) A reference in any enactment or instrument under an enactment to the Data Protection Commissioner or to the Office of the Data Protection Commissioner shall be construed as a reference to the Commission.

...

Editorial Notes:

E15 A fine of €3,000 translates into a class B fine, not greater than €4,000, as provided (4.01.2011) by *FInes Act 2010* (8/2010), ss. 3, 5(2) and table ref. no. 1, S.I. No. 662 of 2010.

A fine of €350 translates into a class E fine, not greater than €500, as provided (4.01.2011) by *FInes Act 2010* (8/2010), ss. 3, 8(2) and table ref. no. 1, S.I. No. 662 of 2010.

Further amendment of Act of 1999.

56.—(1) Section 20 of the Act of 1999 is amended—

(*a*) in subsection (1)(*a*), by the substitution of "12" for "20",

(*b*) in subsection (3)(*b*)(i), by the substitution of "5" for "9" in each place where it occurs.

(2) Section 21 of the Act of 1999 is amended—

(*a*) in subsection (2), by the insertion of "such remuneration (if any) and" after "and shall be paid", and

(*b*) by the insertion of the following subsection after subsection (4):

"(5) Notwithstanding subsection (1), the Minister may, on the occasion of the Minister's first appointing members of the Authority after the commencement of *section 56* of the *Disability Act 2005*, appoint a person who has served not more than 2 consecutive terms as a member of the Authority, to be a member of the Authority.".

(3) Section 23 of the Act of 1999 is amended by the substitution of the following subsection for subsection (3):

"(3) The quorum for a meeting of the Authority shall be 7.".

Repeal of sections 17 and 18 of Equal Status Act 2000.

57.—Sections 17 and 18 of the Equal Status Act 2000 are repealed.

Exclusions.

58.—Nothing in this Act requires any public building, service, information or goods to be made accessible to persons with disabilities if the adaptation or modification involved, or the provision of auxiliary aids would—

(*a*) in the case of a service, information or goods including a service, information or goods made available in a public building, fundamentally alter the nature of the business, profession or trade of the person providing the service, information or goods, or

(*b*) constitute a risk to the health, safety or welfare of any person.

Section 16.

SCHEDULE

Appeals Officer

1. The position of appeals officer shall be a position in the Civil Service, within the meaning of the Public Service Management (Recruitment and Appointments) Act 2004, and a person shall not be appointed to be the appeals officer unless he or she has been selected for appointment to the position following a competition under that Act.

2. The term of office of the appeals officer shall be 5 years and a person may be reappointed to the office for a second or subsequent term.

3. The appeals officer shall be paid such remuneration and such allowances for expenses as the Minister, with the consent of the Minister for Finance, may from time to time determine.

4. The appeals officer—

(1) may at any time resign his or her office by letter addressed to the Minister and the resignation shall take effect on and from the date of his or her receipt of the letter,

(2) may at any time be removed from office by the Minister if, in the opinion of the Minister, he or she has become incapable through ill-health of effectively performing his or her functions or has committed stated misbehaviour.

5. The Minister may appoint such and so many persons to be members of the staff of the appeals officer as he or she considers necessary to assist the appeals officer in the performance of his or her functions and such members shall receive such remuneration and be subject to such other terms and conditions of service as the Minister may, with the consent of the Minister for Finance, determine.

6. Positions on the staff of the appeals officer shall be positions in the Civil Service (within the meaning of the Civil Service Regulation Act 1956).

7. (1) The appeals officer shall keep, in such form as may be approved of by the Minister, all proper and usual accounts of all moneys received or expended by him or her and all such special accounts (if any) as the Minister may direct.

(2) Accounts kept in pursuance of this paragraph in respect of each year shall be submitted by the appeals officer for audit to the Comptroller and Auditor General in the following year on a date not later than a date specified by the Minister and, as soon as may be after the audit, a copy of those accounts, or of such extracts from those accounts as the Minister may specify, together with the report of the Comptroller and Auditor General on the accounts, shall be furnished by the appeals officer to the Minister who shall cause copies of the documents so furnished to be laid before each House of the Oireachtas.

8. The appeals officer may delegate to any members of his or her staff any of his or her functions under this Act save those conferred by *section 17*.

9. (1) Where the appeals officer is for any reason temporarily unable to act as the appeals officer or the office of the appeals officer is vacant, the Minister shall appoint a person to be the appeals officer for the duration of the inability or until an appointment is made in accordance with *paragraph 1*, as the case may be, and the person so appointed may perform all the functions conferred on the appeals officer by this Act.

(2) A person appointed under this paragraph shall hold office upon such terms and conditions as may be determined by the Minister after consultation with the Minister for Finance.

Number 14 *of* 2005

DISABILITY ACT 2005

REVISED

Updated to 2 April 2025

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Planning and Development Act 2024* (34/2024)
- *Policing, Security and Community Safety Act 2024* (1/2024)
- *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023)
- *Assisted Decision-Making (Capacity) (Amendment) Act 2022* (46/2022)
- *Health (Miscellaneous Provisions) Act 2022* (6/2022)

- *Data Protection Act 2018* (7/2018)
- *Local Government Reform Act 2014* (1/2014)
- *Ombudsman (Amendment) Act 2012* (38/2012)
- *Central Bank Reform Act 2010* (23/2010)
- *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010)
- *Broadcasting Act 2009* (18/2009)
- *Houses of the Oireachtas Commission (Amendment) Act 2009* (44/2009)
- *Health Act 2007* (23/2007)

All Acts up to and including *Merchant Shipping (Investigation of Marine Accidents) Act 2025* (2/2025), enacted 14 April 2025, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Disability (Assessment of Needs, Service Statements and Redress) (Amendment) Regulations 2023* (S.I. No. 601 of 2023)
- *Specialist Community-Based Disability Services (Transfer of Departmental Administration and Ministerial Functions) Order 2023* (S.I. No. 595 of 2023)
- *Specialist Community-Based Disability Services (Transfer of Departmental Administration and Ministerial Functions) Order 2022* (S.I. No. 688 of 2022)
- *Health (Miscellaneous Provisions) Act 2022 (Sections 41 and 48) (Commencement) Order 2022* (S.I. No. 326 of 2022)
- *Disability Act 2005 (Commencement) Order 2022* (S.I. No. 3 of 2022)
- *Disability (Assessment of Needs, Service Statements and Redress) (Amendment) Regulations 2021* (S.I. No. 704 of 2021)
- *Disability, Equality, Human Rights, Integration and Reception (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 436 of 2020)
- *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 139 of 2011)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)
- *Disability Act 2005 (Code of Practice) (Declaration) Order 2011* (S.I. No. 484 of 2011)
- *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2010* (S.I. No. 217 of 2010)
- *Disability Act 2005 (Commencement) Order 2007* (S.I. No. 234 of 2007)
- *Disability (Assessment of Needs, Service Statements and Redress) Regulations 2007* (S.I. No. 263 of 2007)
- *Disability Act 2005 (Code of Practice) (Declaration) Order 2006* (S.I. No. 163 of 2006)
- *Disability Act 2005 (Commencement) Order 2005* (S.I. No. 474 of 2005)
- *Maritime Transport, Safety and Security (Transfer of Departmental Administration and Ministerial Functions) Order 2005* (S.I. No. 842 of 2005)

All statutory instruments up to and including *Policing, Security and Community Safety Act 2024 (Commencement) Order 2025* (S.I. No. 107 of 2025), made 2 April 2025, were considered in the preparation of this revision.